

Case: Tina Moore v. Brian Kaminski, et al.

4:14-CV1443 SNLJ, etc.

Transcript of: Steven Ijames

Date: March 8, 2016

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515 Olive Street, Suite 300
St. Louis, MO 63101
(314) 241-6750
1-800-878-6750
Fax: (314) 241-5070
Email: schedule@goreperry.com
Internet: [<<<www.goreperry.com>>>](http://www.goreperry.com)

EXHIBIT

11

Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">1</p> <p>TINA MOORE, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JASON MOORE, DELORES MOORE, AND RENEE RODGERS, AS NEXT FRIEND FOR A.D.R., A MINOR,</p> <p>PLAINTIFFS,</p> <p>VS.</p> <p>BRIAN KAMINSKI, ET AL.,</p> <p>DEFENDANTS.</p> <p>VIDEO DEPOSITION OF STEVEN IJAMES</p> <p>MARCH 8, 2016</p>	<p style="text-align: right;">3</p> <p>1 APPEARANCES OF COUNSEL: 2 3 FOR THE PLAINTIFFS, Delores Moore and Renee 4 Rodgers: 5 Mr. Todd M. Johnson 6 Baty, Holm, Numrich & Otto, P.C. 7 4600 Madison Avenue, Suite 210 8 Kansas City, MO 64112-3012 9 816-531-7200 10 tjohnson@batyholm.com 11 12 FOR THE PLAINTIFF, Tina Moore 13 Mr. William T. Dowd 14 Dowd & Dowd, P.C. 15 211 North Broadway, Suite 4050 16 St. Louis, MO 63102 17 bill@dowdlaw.net 18 19 FOR THE DEFENDANTS: 20 Ms. Ida Shafaie 21 Pitzer & Snodgrass, P.C. 22 100 South Fourth Street, Suite 400 23 St. Louis, MO 63102 24 (314) 421-5545 25 shafaie@pspclaw.com</p>
<p style="text-align: right;">2</p> <p>1 IN THE DISTRICT COURT 2 FOR THE EASTERN DISTRICT OF MISSOURI 3 EASTERN DIVISION 4 5 TINA MOORE, INDIVIDUALLY AND AS PERSONAL 6 REPRESENTATIVE OF THE ESTATE OF JASON MOORE, DELORES 7 MOORE, AND RENEE RODGERS, AS NEXT FRIEND FOR A.D.R., 8 A MINOR, 9 10 PLAINTIFFS, 11 12 Vs. No. 4:14-CV1443 SNLJ 13 4:14-CV1447 SNLJ 14 (Consolidated) 15 BRIAN KAMINSKI, ET AL., 16 17 DEFENDANTS. 18 19 Deposition of STEVEN IJAMES, taken on behalf of 20 the Plaintiffs, at Pitzer & Snodgrass, 100 South 21 Fourth Street, 4th Floor, St. Louis, Missouri, 22 63102, on the 8th day of March, 2016, between the 23 hours of 9:00 a.m. and 11:34 a.m., before Linda 24 DeBisschop, CSR, CCR, Illinois CSR No. 084.004741 25 and Missouri CCR No. 779.</p>	<p style="text-align: right;">4</p> <p>1 THE VIDEOGRAPHER: 2 Mr. Steve Johnston 3 Gore, Perry, Gateway & Lipa Reporting Company 4 515 Olive Street, Suite 700 5 St. Louis, MO 63101 6 (314) 241-6750 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

1 (Pages 1 to 4)

Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">5</p> <p>1 INDEX OF EXAMINATION</p> <p>2 QUESTIONS BY MR. JOHNSON7</p> <p>3 QUESTIONS BY MR. DOWD107</p> <p>4</p> <p>5 INDEX OF EXHIBITS</p> <p>6 Exhibit 1,23</p> <p>7 Exhibit 2,23</p> <p>8 Exhibit 3,23</p> <p>9 Exhibit 4,22</p> <p>10</p> <p>11</p> <p>12 (Exhibits are attached to transcript.)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">7</p> <p>1 [EXAMINATION]</p> <p>2 QUESTIONS BY MR. JOHNSON:</p> <p>3 Q Mr. Ijames, would you state your name for</p> <p>4 the record.</p> <p>5 A Steven Bradford Ijames.</p> <p>6 Q My name is Todd Johnson. We had the</p> <p>7 opportunity to meet briefly before your deposition</p> <p>8 here this morning. I represent some of the</p> <p>9 plaintiffs in a case that's pending in Federal Court</p> <p>10 in St. Louis against the Ferguson Police Department</p> <p>11 and some of their individuals that are associated</p> <p>12 with the police department in the city.</p> <p>13 You've given other depositions, true,</p> <p>14 sir?</p> <p>15 A Yes, sir.</p> <p>16 Q I've seen Major Ijames, I've seen Mr.</p> <p>17 Ijames.</p> <p>18 Is there any preference that you have</p> <p>19 this morning, sir?</p> <p>20 A No, sir.</p> <p>21 Q I'll do my best to be consistent.</p> <p>22 What is your business address, Mr.</p> <p>23 Ijames?</p> <p>24 A Well, I have an office in Hammons Tower in</p> <p>25 Springfield, Missouri. I actually don't know the</p>
<p style="text-align: right;">6</p> <p>1 VIDEOGRAPHER: We are on the record at 9:00.</p> <p>2 Today's date is March 8, 2016 and we are here today</p> <p>3 at the office Pitzer Snodgrass. The address is 100</p> <p>4 South Fourth Street, St. Louis, Missouri. We are</p> <p>5 here for the deposition of Steve Ijames to be taken</p> <p>6 in the case of Tina Moore versus Brian Kaminiski, et</p> <p>7 al.</p> <p>8 At this time would counsel identify</p> <p>9 themselves for the record, please.</p> <p>10 MR. JOHNSON: Todd Johnson for Plaintiffs,</p> <p>11 Delores Moore and Renee Rodgers.</p> <p>12 MR. DOWD: Bill Dowd for Plaintiff, Tina</p> <p>13 Moore.</p> <p>14 MS. SHAFaIE: Ida Shafaie for Defendants.</p> <p>15 VIDEOGRAPHER: Thank you. Would the court</p> <p>16 reporter please swear in the witness.</p> <p>17</p> <p>18 STEVEN IJAMES,</p> <p>19 Of lawful age, having been first duly sworn to</p> <p>20 Testify the truth, the whole truth, and</p> <p>21 Nothing but the truth in the case aforesaid,</p> <p>22 Deposes and says in reply to oral</p> <p>23 Interrogatories, propounded as follows, to-wit:</p> <p>24</p> <p>25</p>	<p style="text-align: right;">8</p> <p>1 mailing address. I don't receive mail there. I</p> <p>2 would actually say my business address is my home</p> <p>3 which is 1020 East University Street, Springfield,</p> <p>4 Missouri.</p> <p>5 Q And how long have you been in the business</p> <p>6 of consulting on police matters?</p> <p>7 A The first case that I did that involved a</p> <p>8 civil action was in 1994.</p> <p>9 Q Do you practice with any other individuals</p> <p>10 in this business that you operate?</p> <p>11 A No, sir. I do my billing through a company</p> <p>12 called Watch House International. That's a company</p> <p>13 that myself and an FBI agent, Chris Whitcomb,</p> <p>14 created in 2007. Watch House does some cause an</p> <p>15 origin fire work. They have some ATF experts, but</p> <p>16 as far as anybody else that does police work</p> <p>17 assessment like I do, the answer would be no.</p> <p>18 Q And how long have you engaged in this type</p> <p>19 of forensic police work? Is it since 1994?</p> <p>20 A Yes, sir. That -- when you asked about</p> <p>21 consulting, I've probably done police consulting</p> <p>22 since the mid-'80s as in responding to a question or</p> <p>23 an inquiry as it relates to an area that I might</p> <p>24 have some expertise. But from a legal perspective,</p> <p>25 as in a civil case, would have been 1994.</p>

2 (Pages 5 to 8)

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Tina Moore v. Brian Kaminski, et al.

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March 8, 2016

<p style="text-align: right;">9</p> <p>1 Q Do you consider yourself to be an expert in</p> <p>2 fields other than police practices?</p> <p>3 A I don't, sir.</p> <p>4 Q You are not a medical expert, true?</p> <p>5 A Correct, I'm not.</p> <p>6 Q Did you attend medical school?</p> <p>7 A No, sir.</p> <p>8 Q Do you hold yourself to be an expert in</p> <p>9 psychology?</p> <p>10 A No, sir.</p> <p>11 Q Psychiatry?</p> <p>12 A No, sir.</p> <p>13 Q Accident reconstruction?</p> <p>14 A No, sir.</p> <p>15 Q Human factors?</p> <p>16 A No, sir.</p> <p>17 Q Do you consider yourself to be a certified</p> <p>18 medical examiner?</p> <p>19 A No, sir.</p> <p>20 Q Have you taken any course work in that</p> <p>21 field, sir?</p> <p>22 A I probably have sat through some courses</p> <p>23 that would be reflective of that curriculum, but I</p> <p>24 don't know what they are and I certainly don't say</p> <p>25 that I'm an expert in that area.</p>	<p style="text-align: right;">11</p> <p>1 A No, sir. I did Republic first and then I</p> <p>2 left Republic for about a month and then went to</p> <p>3 Ozark.</p> <p>4 Q When is the last deposition you gave before</p> <p>5 today?</p> <p>6 A I think I gave one early in January of this</p> <p>7 year.</p> <p>8 Q How many cases are you currently consulting</p> <p>9 on for your police work?</p> <p>10 A I probably have around thirty of which ten</p> <p>11 of those I would consider active.</p> <p>12 Q Have you worked with the Pitzer Firm on</p> <p>13 other cases?</p> <p>14 A I have one other case for sure. It's</p> <p>15 conceivable I have over the years, but I'm certain I</p> <p>16 have one other right now.</p> <p>17 Q One other matter involving Ferguson or</p> <p>18 different agencies, if you can disclose it?</p> <p>19 A I'm sorry, sir, I didn't understand it.</p> <p>20 Q The one other matter, does that involve</p> <p>21 Ferguson or can you disclose that at this time?</p> <p>22 A Sure. It's not. The other matter I've been</p> <p>23 retained in is another St. Louis County</p> <p>24 municipality, but not -- not Ferguson.</p> <p>25 Q Have you worked with the Pitzer Firm on</p>
<p style="text-align: right;">10</p> <p>1 Q Do you hold yourself out to be an expert,</p> <p>2 sir, in toxicology?</p> <p>3 A No, sir.</p> <p>4 Q Or an engineer?</p> <p>5 A No, sir.</p> <p>6 Q Or a physicist?</p> <p>7 A No, sir.</p> <p>8 Q Or a lawyer?</p> <p>9 A No, sir.</p> <p>10 Q Do you agree with me that you are not</p> <p>11 permitted to give legal opinions?</p> <p>12 A I do.</p> <p>13 Q The last time you worked as a police officer</p> <p>14 in a department was 2007 in Springfield, Missouri,</p> <p>15 correct?</p> <p>16 A No, sir. I was chief of police in Ozark,</p> <p>17 Missouri until I think November 1st of last year.</p> <p>18 I've maintained a full police commission in Missouri</p> <p>19 since '78 or '79. I retired from Springfield PD in</p> <p>20 '07. I maintained the sheriff's commission, but was</p> <p>21 chief of police in Republic, Missouri and then Ozark</p> <p>22 in, like I said, I believe November 1st of last</p> <p>23 year.</p> <p>24 Q Is that a job that you held concurrently</p> <p>25 between those two agencies; Ozark, Republic?</p>	<p style="text-align: right;">12</p> <p>1 other Ferguson matters that you've been identified</p> <p>2 as an expert witness?</p> <p>3 A Not that I'm aware of.</p> <p>4 Q What percent of your income currently is</p> <p>5 derived from litigation work?</p> <p>6 A I would estimate about half.</p> <p>7 Q The other half is through some consulting</p> <p>8 role?</p> <p>9 A I've got a police pension from the City of</p> <p>10 Springfield and I probably do some type of police</p> <p>11 training twice a month, whether it be presenting at</p> <p>12 a state chiefs conference or consulting on policies</p> <p>13 and procedures, that sort of thing.</p> <p>14 Q Do you advertise for your services, sir?</p> <p>15 A No, sir.</p> <p>16 Q Have you ever been named as defendant in a</p> <p>17 police misconduct case?</p> <p>18 A As in being sued?</p> <p>19 Q Yes, sir.</p> <p>20 A No, sir.</p> <p>21 Q I assume you met with Ms. Shafaie to prepare</p> <p>22 for your deposition this morning?</p> <p>23 A For about ten minutes, yes, sir.</p> <p>24 Q Other than traveling here, anything else</p> <p>25 that you did to prepare for your deposition, Mr.</p>

3 (Pages 9 to 12)

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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">13</p> <p>1 Ijames?</p> <p>2 A I printed my report in the hotel last night</p> <p>3 and I reviewed it. That was it.</p> <p>4 Q The records that you received, were they on</p> <p>5 disc?</p> <p>6 A I received a CD which I do happen to have</p> <p>7 with me and then, I believe as depositions and other</p> <p>8 things were developed, I think those were sent to me</p> <p>9 by email.</p> <p>10 Q So without going through an exhaustive list,</p> <p>11 what records were on the disc versus what records</p> <p>12 did you get as matters happen contemporaneously</p> <p>13 through email?</p> <p>14 A I think I'd mostly be guessing. The disc I</p> <p>15 received would have been the initial pleadings, the</p> <p>16 officers' reports. I don't think I had any of the</p> <p>17 depositions until I received those by email.</p> <p>18 Q When were you hired in this matter?</p> <p>19 A And I apologize. It sounds like I guess a</p> <p>20 lot. It would have been summer or fall of last</p> <p>21 year. I don't have an exact date.</p> <p>22 Q Who hired you?</p> <p>23 A I believe Mr. Plunkett is who called me and</p> <p>24 I think that's my answer.</p> <p>25 Q The opinions that you're offering today, are</p>	<p style="text-align: right;">15</p> <p>1 to be associated with the City of Ferguson or the</p> <p>2 Ferguson Police Department as part of your work in</p> <p>3 this matter?</p> <p>4 A No, sir.</p> <p>5 Q Did you go to the scene of the incident?</p> <p>6 A I have driven to the scene, but I was by</p> <p>7 myself.</p> <p>8 Q When did you do that, sir?</p> <p>9 A Last night.</p> <p>10 Q And when you were at the scene, how long</p> <p>11 were you there?</p> <p>12 A Three minutes just to visually lay eyes upon</p> <p>13 the scene, since obviously no officers or vehicles</p> <p>14 were there, I just wanted to drive through the</p> <p>15 scene.</p> <p>16 Q So you were there in the darkness hours?</p> <p>17 A It was.</p> <p>18 Q For three minutes?</p> <p>19 A That would be about approximate, yes, sir.</p> <p>20 Q Did you get out of your vehicle?</p> <p>21 A I did not.</p> <p>22 Q In your career, how many times have you</p> <p>23 testified for the plaintiff in an excessive force</p> <p>24 case?</p> <p>25 A I think total number I couldn't give you. I</p>
<p style="text-align: right;">14</p> <p>1 they -- there's a number of defendants.</p> <p>2 You understand that, sir?</p> <p>3 A Yes, sir.</p> <p>4 Q Are you offering opinions about particular</p> <p>5 or specific defendants as opposed to the defendants</p> <p>6 generally?</p> <p>7 A I think what I was asked to do primarily was</p> <p>8 assess the particulars as it relates to the</p> <p>9 interaction between the first responding officer and</p> <p>10 the deceased, and so I don't think I was told just</p> <p>11 give opinions concerning this, but that's the crux</p> <p>12 of my opinions or that event there.</p> <p>13 Q Would it be fair to characterize your</p> <p>14 opinions as primarily focusing on conduct of</p> <p>15 Officers Kaminski and White?</p> <p>16 A Yes, sir, that would be accurate.</p> <p>17 Q In addition to the review of records given</p> <p>18 to you on disc and via email, did you conduct any</p> <p>19 other work as part of your work in this matter such</p> <p>20 as interviewing witnesses?</p> <p>21 A I did not.</p> <p>22 Q Did you ever interview Officers Kaminski or</p> <p>23 White?</p> <p>24 A No, sir.</p> <p>25 Q Did you interview any persons you associate</p>	<p style="text-align: right;">16</p> <p>1 can tell you with the current cases I have, I think</p> <p>2 there are two that are active that are plaintiffs</p> <p>3 cases, but the vast majority of my work has been</p> <p>4 defense work, but I think I have two plaintiffs</p> <p>5 cases right now.</p> <p>6 Q I've seen that you in your -- historically</p> <p>7 have done 95 percent defense work.</p> <p>8 Is that a fair estimate?</p> <p>9 A I believe so, yes, sir.</p> <p>10 Q And when I say where you testify for the</p> <p>11 plaintiff, I'm asking about an occasion where you</p> <p>12 have given testimony via deposition or at trial on</p> <p>13 behalf of a person seeking money damages against a</p> <p>14 law enforcement agency, and your testimony has been</p> <p>15 on behalf of the plaintiff who made a claim of</p> <p>16 excessive force.</p> <p>17 That was a really long definition,</p> <p>18 but what I'm getting at is, I've seen historically</p> <p>19 in your testimony where sometimes you've testified</p> <p>20 about an officer's license or certification,</p> <p>21 correct?</p> <p>22 A I have done a lot of personnel hearings</p> <p>23 where an agency is trying to fire an officer and I</p> <p>24 testified in those cases.</p> <p>25 Q And in support of some of those personnel</p>

4 (Pages 13 to 16)

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March 8, 2016

<p style="text-align: right;">17</p> <p>1 hearings, you've given testimony that the officer 2 engaged in some form of misconduct, correct? 3 A Just to be clear, I don't know that I've 4 ever been engaged in one of those different than 5 that. They've all been misconduct cases. 6 Q Sure. And in those occasions where there 7 has been a claim of officer misconduct, have some of 8 those agency or personnel actions involved a claim 9 that the officer engaged in excessive force? 10 A In most of those cases I would say yes, sir. 11 Q And let's set that aside, okay? 12 Outside of the personnel actions, in 13 your career, how many times have you offered 14 deposition or trial testimony on behalf of the 15 plaintiff in an excessive force claim? 16 A Four or five total. 17 Q Since 1994? 18 A That would be accurate. 19 Q And that's out of the hundreds of excessive 20 force cases in which you've been retained, correct? 21 A Yes, sir. 22 Q You believe as an expert witness you must 23 take the facts as they exist, you cannot make up 24 facts that suit you, correct? 25 A Yes, sir, I do.</p>	<p style="text-align: right;">19</p> <p>1 onto my format and then just continue working. 2 Historically for me I found 3 sequential processes make more sense, so I try to 4 just follow a timeline and I create a single 5 document that, at the end of the process, I'll 6 modify, adjust to make sense sequentially as to how 7 I formulate my opinions. 8 Q Does that sequence or timeline ultimately 9 transform into a report if you issue one? 10 A Yes, sir. 11 Q So what I gather is your report is somewhat 12 of a living breathing document that is formulated 13 based on your review of the materials and you're 14 typing into that report as you work through the 15 materials culminating in a report that you would 16 sign? 17 A Yes, sir. 18 Q Did you look at any versions of the 19 complaint that the plaintiffs have filed in this 20 case? 21 A Yes, sir, I did. 22 Q Were you provided summaries of depositions? 23 A First, as actual depositions? 24 Q Yes, sir. 25 A No, sir.</p>
<p style="text-align: right;">18</p> <p>1 Q Do you believe you should consider all of 2 the evidence objectively in reaching your opinions? 3 A Yes, sir. 4 Q You agree that you should not be an advocate 5 for either side? 6 A I agree with that. 7 Q Is there anything in this matter that you 8 wanted to see, but you weren't afforded the 9 opportunity? 10 A I don't think so. 11 Q Any limitations put on your work, sir? 12 A No, sir. 13 Q When you were given depositions, did you 14 review them? 15 A I did. 16 Q The methodology in which you work as a 17 person identified as an expert witness, do you take 18 notes, do you make summaries, do you flag, do you 19 highlight? 20 Walk me through your methodology when 21 reviewing materials. 22 A Sure. What I do basically is I have a 23 format that I use for a narrative and I write facts 24 as I receive them. So if I'm doing a deposition, 25 when I read a relevant issue, I'll transpose that</p>	<p style="text-align: right;">20</p> <p>1 Q Were you provided summaries of records? 2 A No, sir, none. 3 Q Is there anything that you specifically 4 created in response to the requirements of Rule 26 5 such as obviously a report is one, correct? 6 A Yes, sir. 7 Q On top of the report, anything that you 8 created that you did not have before in response to 9 your designation under Rule 26 in this matter? 10 A The specific answer would be no. I may have 11 updated, for example, a deposition that I had, an 12 article, something of that nature. 13 Q You have not spoken with anybody associated 14 with the Moore family about this matter? 15 A No, sir. 16 Q Have you spoken to any treating physicians 17 or medical providers of Jason Moore? 18 A No, sir. 19 Q You've rendered billings to the firm that 20 hired you, correct? 21 A I have not yet, sir, in this case. 22 Q And what form of billing do you intend to 23 render in this matter to the firm that hired you? 24 A It will be an hourly rate. I've not done a 25 site visit, per se, in this case that I would bill</p>

5 (Pages 17 to 20)

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March 8, 2016

<p style="text-align: right;">21</p> <p>1 for, so it would just be for the time committed to</p> <p>2 reviewing material and creating my report.</p> <p>3 Q A site visit, is that something that you</p> <p>4 would like to do that you haven't yet had the</p> <p>5 opportunity to do, sir?</p> <p>6 A No, sir. In many cases there is in my mind</p> <p>7 a need to perhaps meet at the scene with the</p> <p>8 officers, if I have some confusion from either their</p> <p>9 narrative or deposition. I didn't have that in this</p> <p>10 case so, no, sir, I would not expect to do that.</p> <p>11 Q What is your hourly rate for litigation</p> <p>12 work?</p> <p>13 A \$295 per hour.</p> <p>14 Q Does that fluctuate at all when it comes to</p> <p>15 testimony or forensic work or trial appearances?</p> <p>16 A The only deviation I have, and I think I</p> <p>17 included that in my report how my fee structure is</p> <p>18 set up, that it's a straight fee for time committed</p> <p>19 to review, and then if I travel, I have a per day</p> <p>20 fee whether it's a deposition for you or a site</p> <p>21 visit, it's all the same.</p> <p>22 Q Did you get my check?</p> <p>23 A I haven't, but I received an email from Mr.</p> <p>24 Yoder at Watch House that he had received a check,</p> <p>25 so I'm sure it's there.</p>	<p style="text-align: right;">23</p> <p>1 Rule 26 material was with it, but this is the only</p> <p>2 report narrative that I've done, yes, sir.</p> <p>3 Q And I use the report very narrowly. I'll</p> <p>4 hand you other portions of your disclosure in this</p> <p>5 matter.</p> <p>6 (Exhibit 1 was marked for</p> <p>7 identification by the court</p> <p>8 reporter.)</p> <p>9 Q Exhibit 1, is that a current CV, Mr. Ijames?</p> <p>10 A It's current within the last couple of</p> <p>11 months. There may have been an adjustment from when</p> <p>12 I submitted this to you and today.</p> <p>13 (Exhibit 2 was marked for</p> <p>14 identification by the court</p> <p>15 reporter.)</p> <p>16 Q Exhibit 2 would be publications and other</p> <p>17 background in the field that you've been associated</p> <p>18 with, sir?</p> <p>19 A I think this document here, sir, is</p> <p>20 exclusively articles, publications.</p> <p>21 Q And are those articles or publications that</p> <p>22 you would be primarily or collaboratively authored?</p> <p>23 A I think, yes, sir, maybe one or two were</p> <p>24 collaborations. I think they are almost all mine.</p> <p>25 (Exhibit 3 was marked for</p>
<p style="text-align: right;">22</p> <p>1 Q Thank you.</p> <p>2 A Thank you.</p> <p>3 Q Any idea of how much time you spent to date</p> <p>4 in this case?</p> <p>5 A Just looking through my report, I thought</p> <p>6 you might ask that because, it's not that I don't</p> <p>7 want to bill, I just haven't had time.</p> <p>8 I've probably got 25 hours in this</p> <p>9 case, but that would truly be an estimate. Just</p> <p>10 based on my knowledge of the size of the case, I</p> <p>11 would estimate about 25 hours.</p> <p>12 Q And what has that 25 hours been comprised</p> <p>13 of, sir?</p> <p>14 A It's primarily been reviewing the material</p> <p>15 and then creating the report that I submitted.</p> <p>16 (Exhibit 4 was marked for</p> <p>17 identification by the court</p> <p>18 reporter.)</p> <p>19 Q Exhibit 4, out of order, of course, is your</p> <p>20 report, correct, Mr. Ijames?</p> <p>21 A Yes, sir.</p> <p>22 Q Is that the only report that you have issued</p> <p>23 in this matter?</p> <p>24 A The only clarification I would give is the</p> <p>25 one I printed I think is 41 pages because all of the</p>	<p style="text-align: right;">24</p> <p>1 identification by the court</p> <p>2 reporter.)</p> <p>3 Q And Exhibit 3 would be a rolling list of</p> <p>4 testimony you've given in the past four years either</p> <p>5 at deposition or trial?</p> <p>6 A Yes, sir, and the exception would be, I</p> <p>7 believe I think I've had a deposition, one since</p> <p>8 then, but just didn't make it onto this when you</p> <p>9 received it.</p> <p>10 Q What kind of case was it, the one in</p> <p>11 January?</p> <p>12 A I'm thinking. It is an excessive force</p> <p>13 case, but the crux of the case is an accidental</p> <p>14 shooting where an officer fired at a suspect who was</p> <p>15 shooting at him and behind him to the left 58 yards</p> <p>16 a young girl was hit in the shoulder.</p> <p>17 Q Now that I've shown you the different</p> <p>18 components of your disclosure in this matter,</p> <p>19 whether it's my definition of report or your</p> <p>20 definition of report, have we covered all the</p> <p>21 different components of your disclosure in this</p> <p>22 matter?</p> <p>23 A Yes, sir.</p> <p>24 Q You have not brought any correspondence</p> <p>25 between counsel who retained you and you or your</p>

6 (Pages 21 to 24)

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Steven Ijames

March 8, 2016

<p style="text-align: right;">25</p> <p>1 offices, correct?</p> <p>2 A Correct, sir.</p> <p>3 Q Did you rely on any of the opinions of</p> <p>4 anybody else for your work in this case?</p> <p>5 A No, sir.</p> <p>6 Q The criticisms, if any, that you have of</p> <p>7 Mr. Martinelli, are they found in your report that</p> <p>8 we marked as Exhibit 4?</p> <p>9 A They would be.</p> <p>10 Q We will get to your opinions obviously at</p> <p>11 some point today, but can you think of any</p> <p>12 differences of opinion or criticisms that you have</p> <p>13 of Mr. Martinelli that are not contained in your</p> <p>14 report?</p> <p>15 A Based on his deposition testimony, I would</p> <p>16 have a lot of disagreements, but they weren't such</p> <p>17 that I needed to formulate them in an opinion, if</p> <p>18 that makes sense.</p> <p>19 Q In other words, it didn't lead to a</p> <p>20 supplemental report?</p> <p>21 A No, sir.</p> <p>22 Q Has your testimony ever been limited or</p> <p>23 stricken, to your knowledge?</p> <p>24 A Not that I'm aware of.</p> <p>25 Q Do you plan to do anything today -- strike</p>	<p style="text-align: right;">27</p> <p>1 A I don't believe that I have, sir.</p> <p>2 Q Did you review any publications as part of</p> <p>3 your work on this case?</p> <p>4 A I did some. They would all be footnoted. I</p> <p>5 think I looked at the IACP model policy on TASER</p> <p>6 use. I think looked at a power point presentation,</p> <p>7 a CIT power point presentation that relates to the</p> <p>8 escalation, but they would all be footnoted if I did</p> <p>9 review something beyond the material provided.</p> <p>10 Q And is there a model number for the IACP</p> <p>11 policy that you reviewed as part of your work in</p> <p>12 this case?</p> <p>13 A I don't believe they do sequential</p> <p>14 numbering. It's simply referred to as the</p> <p>15 electronic control device policy.</p> <p>16 Q Is there a version of that that you looked</p> <p>17 at?</p> <p>18 A The version that would be relevant in this</p> <p>19 case was the one updated in October of 2010.</p> <p>20 Q The power point presentations, whether they</p> <p>21 be the CIT power point or the other training, was</p> <p>22 that a power point presentation that you authored or</p> <p>23 that somebody else authored?</p> <p>24 A The particular one I referenced in this case</p> <p>25 was the actual standard power point that comes from</p>
<p style="text-align: right;">26</p> <p>1 that.</p> <p>2 Do you plan to do anything after</p> <p>3 today other than potentially appearing at trial?</p> <p>4 A Unless something is provided that would</p> <p>5 cause me to have a different opinion, something</p> <p>6 late, the answer would be no.</p> <p>7 Q In doing your work, is there any piece of</p> <p>8 evidence that you consider to be out and out</p> <p>9 factually inaccurate?</p> <p>10 A Well, the only thing that comes to mind, and</p> <p>11 this may be reflective of what you're asking. I</p> <p>12 think Mr. Martinelli at his deposition suggested</p> <p>13 that Officer White was there basically after the</p> <p>14 first five-second cycle and I think that's factually</p> <p>15 inaccurate.</p> <p>16 That may not be responsive to what</p> <p>17 you're asking, but that's the only thing that I</p> <p>18 think is significant that comes to mind.</p> <p>19 Q Has your commission or certification or</p> <p>20 licensure in the police field ever been subject to</p> <p>21 challenge?</p> <p>22 A No, sir.</p> <p>23 Q Did you receive any additional material</p> <p>24 after issuing your January 28, 2016 report in this</p> <p>25 matter?</p>	<p style="text-align: right;">28</p> <p>1 the CIT program in Memphis, the 2007 edition. Most,</p> <p>2 I can't speak for all, many CIT components nation</p> <p>3 wide with the approval of the national headquarters</p> <p>4 will modify them to make more contemporaneous to</p> <p>5 their area. I've done that for the Springfield</p> <p>6 region, but the particular one that I referenced was</p> <p>7 the standard without any input from me at all.</p> <p>8 Q And is the IACP model effective</p> <p>9 October 2010, would that be an IACP policy as it</p> <p>10 relates to ECW use and effect as of September of</p> <p>11 2011?</p> <p>12 A It would have been the X26, yes, sir.</p> <p>13 Q The CIT training power point presentation</p> <p>14 that is the 2007 edition, would that be in place to</p> <p>15 the extent an agency adopted it as of September of</p> <p>16 2011?</p> <p>17 A To my knowledge there had not been an update</p> <p>18 from the 2007, so to the best of my understanding,</p> <p>19 yes, sir.</p> <p>20 Q Is there any evidence you saw in this case</p> <p>21 that the City of Ferguson had adopted the Memphis</p> <p>22 model at the CIT training as of September of 2011?</p> <p>23 A I can't speak for the entire agency. I</p> <p>24 believe Kaminski testified that he participated, but</p> <p>25 after this incident.</p>

7 (Pages 25 to 28)

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Steven Ijames

March 8, 2016

<p style="text-align: right;">29</p> <p>1 Q Any evidence that you saw that Ferguson had 2 sent officers to any form of CIT training prior to 3 September of 2011? 4 A I don't recall. 5 Q Any evidence that you saw that Ferguson had 6 adopted the IACP model number revised in October of 7 2010 for ECW use? 8 A I'm certain that they didn't, and just to 9 clarify, the IACP models are not specifically 10 designed for adoption. Most agencies are members of 11 the IACP. They use those as a format. I'm not 12 suggesting that there is no one in the U.S. that 13 takes it and adopts it word for word, but most 14 people don't. 15 I am a member of the national policy 16 center board. I actually wrote that document, so 17 I'm very familiar with what the process is, and just 18 for clarification. 19 So the answer is no and I don't know 20 that very many people do actually take it and put 21 their name on it and use it in that format. 22 Q You saw the City of Ferguson TASER standing 23 order in effect as of September of 2011, correct? 24 A I did. 25 Q Based on your background, training and</p>	<p style="text-align: right;">31</p> <p>1 A Yes, sir. 2 Q When was the last PERF revision of TASER use 3 prior to September of 2011? 4 A I just can't say for certain to give you a 5 date, but they have done at least one update since 6 2007. I'm reasonably certain one in 2010. They may 7 have done one since then. I have not been involved 8 with PERF since 2007 to the degree that I was before 9 that. 10 Q Any -- through your review of the TASER use 11 policy or standing order by the City of Ferguson, 12 did it stand out to you that there was any adoption 13 of any PERF standard or model found in that document 14 that was produced in this case? 15 A I just don't recall from memory, sir. 16 Q You also mentioned one other form of power 17 point training that you reviewed as part of your 18 work in this case. We had the IACP model standard, 19 we had the CIT training, power point presentation 20 and you referenced another more generic power point 21 training presentation, did I hear that correctly 22 that you referred to in this case or was it just the 23 CIT? 24 A I would just have to look. I don't recall 25 referencing another power point except the -- beside</p>
<p style="text-align: right;">30</p> <p>1 experience working with the IACP organization or 2 otherwise, is there anything that stood out to you 3 that that was, in essence, a verbatim adoption of 4 the IACP model in effect or revised in October of 5 2010? 6 A It didn't appear to be a verbatim adoption. 7 Q Is there anything in reviewing that TASER 8 use policy that was produced as a standing order by 9 Ferguson in this case that suggested to you that 10 that was adopted from TASER International? 11 A I know the answer is no specifically, but I 12 know that they were trained through the TASER 13 format. It clearly would have influenced it, but as 14 far as them literally adopting a TASER policy, I 15 think TASER on principle says they don't create one. 16 Q What is PERF? 17 A Police Executive Research Forum. 18 Q Are you familiar with your law enforcement 19 background or consulting background that PERF also 20 offers standards? 21 A I've specifically been involved in their 22 TASER standards up until 2007, yes, sir. 23 Q Do you know of any further revisions of the 24 PERF standards after 2007 as it relates to TASER 25 use?</p>	<p style="text-align: right;">32</p> <p>1 the CIT. 2 Q Have you authored a power point presentation 3 that you've given to the City of Springfield and 4 other agencies about the use of the TASER X26? 5 A I'm not confused. I'm just thinking. I 6 have done a lot of training in the TASER for the 7 City of Springfield Police Department, not in recent 8 years since I retired in 2007, but I would have 9 created basically the parent document of everything 10 that SPD used per TASER from our first acquisition 11 in the mid-'90s until I left in 2007. I was the 12 deputy chief then, so I wouldn't have done a lot of 13 the hands-on training, but because of expertise in 14 that area, I would have either created it or have 15 vetted it. 16 So my hand would be on anything there 17 at least up to 2007. I know as recent as 2010 I did 18 a reassessment at the current chief's request of 19 their policy specifically related to fall-down risk. 20 So the answer would be not necessarily just a power 21 point, but the lesson plans themselves I definitely 22 would have had a hand in. 23 Q You took your TASER basic training in 1995? 24 A I would have done a TASER-tron class which 25 was before TASER International existed. That's</p>

8 (Pages 29 to 32)

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Steven Ijames

March 8, 2016

<p style="text-align: right;">33</p> <p>1 where I got my first instructor rating, yes, sir.</p> <p>2 Q And your instructor courses was taken when?</p> <p>3 A The first one was in, I think, Prince</p> <p>4 William County in 1995 in Virginia, and then in 1999</p> <p>5 when the M26 was widely distributed, I went through</p> <p>6 a master instructor class. I believe we hosted that</p> <p>7 in Springfield in 1999.</p> <p>8 Q And when did you take your master instructor</p> <p>9 course?</p> <p>10 A I really can't recall, sir, whether in '99 I</p> <p>11 had the instructor trainer rating then or just an</p> <p>12 instructor rating. I certainly had a master rating</p> <p>13 for a number of years. I just don't recall if it</p> <p>14 was the very first block or not.</p> <p>15 Q You let your master rating expire in 2010,</p> <p>16 correct, sir?</p> <p>17 A I think it was around 2010, yes, sir.</p> <p>18 Q You've, in the course of your law</p> <p>19 enforcement employment, you discharged your TASER</p> <p>20 weapon one time?</p> <p>21 A On a suspect. On a natural suspect, yes,</p> <p>22 sir.</p> <p>23 Q And that was one time in an actual police</p> <p>24 encounter?</p> <p>25 A Correct.</p>	<p style="text-align: right;">35</p> <p>1 Q Have you ever testified for the plaintiff in</p> <p>2 an excessive force case involving the use of a</p> <p>3 TASER?</p> <p>4 A I don't believe so.</p> <p>5 Q Have you ever been retained by TASER</p> <p>6 International for any work under any set of</p> <p>7 circumstances?</p> <p>8 A No, sir.</p> <p>9 Q Have you ever been paid or employed by TASER</p> <p>10 International for any research studies?</p> <p>11 A No, sir.</p> <p>12 Q Any other articles on your publication list</p> <p>13 or your CV other than those listed where you have</p> <p>14 written about the use of a TASER?</p> <p>15 A I don't think so.</p> <p>16 Q Have you ever been retained by the plaintiff</p> <p>17 in a TASER -- strike that.</p> <p>18 Were you involved in the</p> <p>19 Hernandez-Rojas case in some way?</p> <p>20 A I was.</p> <p>21 Q What was your involvement in the</p> <p>22 Hernandez-Rojas case for the Border Patrol down by</p> <p>23 San Diego?</p> <p>24 A Thanks for that last part because I was</p> <p>25 trying to recall the case. I was hired by the</p>
<p style="text-align: right;">34</p> <p>1 Q That was 2006 when you shot an individual in</p> <p>2 the back, correct?</p> <p>3 A For some reason I thought that was 2007. It</p> <p>4 was shortly before I retired, but it would have been</p> <p>5 close to that.</p> <p>6 Q And no other point in your law enforcement</p> <p>7 career where there was an encounter where you had to</p> <p>8 discharge your TASER on an individual or suspect?</p> <p>9 A Correct, sir.</p> <p>10 Q Have you had the X26 used against you?</p> <p>11 A Many times.</p> <p>12 Q You referenced earlier that there were a</p> <p>13 handful of occasions where you testified for the</p> <p>14 plaintiff in an excessive force case.</p> <p>15 Was one of those times a case in</p> <p>16 Iowa?</p> <p>17 A Yes, sir.</p> <p>18 Q Mr. French, was he the attorney involved?</p> <p>19 A I think so. John French, yes, sir.</p> <p>20 Q What were the facts and circumstances of</p> <p>21 that case, sir?</p> <p>22 A It was a car chase in which the officer in</p> <p>23 my opinion had intentionally pulled out in front of</p> <p>24 a motorcycle that was being pursued resulting in a</p> <p>25 serious injury car crash.</p>	<p style="text-align: right;">36</p> <p>1 Department of Justice, I think is who actually does</p> <p>2 that for the Border Patrol in reference to rendering</p> <p>3 opinions concerning whether the deployment of the</p> <p>4 TASER in that case was reasonable.</p> <p>5 Q Was that a DOJ action against the Border</p> <p>6 Patrol or the Federal government, if you know?</p> <p>7 A No, sir. It was a defense case. I believe</p> <p>8 the family of Mr. Hernandez-Rojas who was injured</p> <p>9 filed the action and I was hired to defend that use.</p> <p>10 Q So you were retained to defend the Border</p> <p>11 Patrol agents who were accused of engaging in</p> <p>12 excessive force?</p> <p>13 A I need to clarify. I'm thinking we got two</p> <p>14 cases mixed up. Was Hernandez-Rojas the case where</p> <p>15 there were multiple agents standing? Okay.</p> <p>16 Q And that case is still pending.</p> <p>17 A Okay. That -- that was the case, where if</p> <p>18 you'd like me to clarify, a rare case where I</p> <p>19 rendered opinions in writing that the force was</p> <p>20 unreasonable and excessive and they had me document</p> <p>21 that. Most people when they ask to look at a case,</p> <p>22 when you tell them this is inappropriate and</p> <p>23 excessive, they say thank you, we'll go elsewhere.</p> <p>24 I communicated that and hung the phone up and</p> <p>25 thought that was that.</p>

9 (Pages 33 to 36)

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Steven Ijames

March 8, 2016

<p style="text-align: right;">37</p> <p>1 And about a week later they called me</p> <p>2 and said we'd like you to memorialize that in a</p> <p>3 report. I wrote a very detailed report basically</p> <p>4 saying that the use of force in that case was</p> <p>5 excessive, so that may not have been responsive to</p> <p>6 your earlier question, but I think you asked if I</p> <p>7 was hired by the plaintiff to testify against the</p> <p>8 TASER use. In that case I wrote a report against</p> <p>9 the TASER use, but it happened to be for the</p> <p>10 defense.</p> <p>11 Q And I know that you're not a lawyer and some</p> <p>12 of the procedural posture may be lost on you.</p> <p>13 A Right.</p> <p>14 Q What I'm understanding is there was civil</p> <p>15 litigation related to the use of a TASER ECW in the</p> <p>16 Hernandez-Rojas case, true?</p> <p>17 A Yes, sir. I had that confused with another</p> <p>18 case, sorry.</p> <p>19 Q And you were retained by the people</p> <p>20 representing the Border Patrol agents and they asked</p> <p>21 you to author a written report as it relates to</p> <p>22 those agents or officers' use of the TASER?</p> <p>23 A Yes, sir. It was actually the U.S.</p> <p>24 Attorney's Office who asked me to do that.</p> <p>25 Q Okay. Which office, Southern District of</p>	<p style="text-align: right;">39</p> <p>1 the time of the police encounter?</p> <p>2 A I have not offered any written opinions on</p> <p>3 that, no, sir.</p> <p>4 Q Or agitated delirium?</p> <p>5 A No, sir.</p> <p>6 Q Are there publications in your law</p> <p>7 enforcement field that you consider to be</p> <p>8 authoritative?</p> <p>9 A Yes, sir.</p> <p>10 Q Police Chiefs?</p> <p>11 A Police Chief Magazine, yes.</p> <p>12 Q Tactic Ledge?</p> <p>13 A Yes, sir.</p> <p>14 Q Law and Order?</p> <p>15 A Yes, sir.</p> <p>16 Q Any others?</p> <p>17 A I can't say just from memory. I would say</p> <p>18 there are a number of others that I can't recall.</p> <p>19 As long as there's a peer-reviewed process to it, I</p> <p>20 know there is many. That would be my best answer.</p> <p>21 Q Have you actually authored articles that</p> <p>22 have been published in those three magazines?</p> <p>23 A I have.</p> <p>24 Q We mentioned IACP. We mentioned PERF.</p> <p>25 Let's start with IACP.</p>
<p style="text-align: right;">38</p> <p>1 California?</p> <p>2 A I could certainly find it since I authored</p> <p>3 the report for them, but I don't recall.</p> <p>4 Q What year was that report?</p> <p>5 A I'm not sure. Probably 2011, 2012,</p> <p>6 somewhere in that area.</p> <p>7 Q Did you give a deposition in that case?</p> <p>8 A No, sir, just my report.</p> <p>9 Q And the case hasn't been tried so no trial</p> <p>10 testimony?</p> <p>11 A No, sir. Just the report and I don't</p> <p>12 believe I've ever been contacted since then.</p> <p>13 Q Do you know if you were even identified as</p> <p>14 an expert witness in that matter?</p> <p>15 A I don't know. As I mentioned earlier, that</p> <p>16 is a very rare occurrence and you mentioned the</p> <p>17 lawyer posturing. I always felt like that was</p> <p>18 probably done to memorialize my position and then X</p> <p>19 me out for any future concern they might have,</p> <p>20 because I was very critical of the deployment.</p> <p>21 Q Sure. Are you offering any opinions about</p> <p>22 the cause of Mr. Moore's death?</p> <p>23 A No, sir.</p> <p>24 Q Are you offering any opinions about whether</p> <p>25 he was in a state of excited delirium at or about</p>	<p style="text-align: right;">40</p> <p>1 Do you consider that body to be</p> <p>2 authoritative in the field of police practices?</p> <p>3 A I do, sir.</p> <p>4 Q Do you consider PERF to be authoritative in</p> <p>5 the field of police practices?</p> <p>6 A I do.</p> <p>7 Q Do you consider the National Sheriffs</p> <p>8 Association to be authoritative on police practices?</p> <p>9 A I do, sir.</p> <p>10 Q Do you believe the Missouri Police Chiefs</p> <p>11 Organization to be authoritative at the Missouri</p> <p>12 state level on police practices?</p> <p>13 A I do.</p> <p>14 Q Are there any other bodies, such as the ones</p> <p>15 I've just mentioned, that you consider to be</p> <p>16 authoritative on police practices in your field?</p> <p>17 A I think there are many others, various state</p> <p>18 associations, but those four would be the primary</p> <p>19 ones that I'm familiar with.</p> <p>20 Q How do you define officer safety, sir?</p> <p>21 A I would define that as a process by which an</p> <p>22 officer balances their risks compared to the</p> <p>23 circumstances they are in and potential benefit.</p> <p>24 Q Do you consider officer safety to be an</p> <p>25 important characteristic?</p>

10 (Pages 37 to 40)

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Steven Ijames

March 8, 2016

<p style="text-align: right;">41</p> <p>1 A Maintaining officer safety is important. It</p> <p>2 is certainly not the only thing we focus on, but it</p> <p>3 is important.</p> <p>4 Q Should an officer use safety as</p> <p>5 consideration in assessing a law enforcement</p> <p>6 situation or encounter?</p> <p>7 A They should.</p> <p>8 Q And should they approach the situation in</p> <p>9 the safest manner possible while still carrying out</p> <p>10 their duties?</p> <p>11 A I believe so.</p> <p>12 Q What does de-escalation of force mean, sir?</p> <p>13 A De-escalation of force, in my opinion, is an</p> <p>14 officer using tactics, tools and techniques to focus</p> <p>15 on accomplishing a mission objective, but likewise,</p> <p>16 reducing the potential negativity or scope of the</p> <p>17 outcome.</p> <p>18 Q And can you de-escalate when practical when</p> <p>19 consistent with the mission objective?</p> <p>20 A I believe you should, yes, sir.</p> <p>21 Q You've used the term or phrase rapidly</p> <p>22 evolving in several points in your report that we</p> <p>23 marked as Exhibit 4, true?</p> <p>24 A Yes, sir.</p> <p>25 Q What do you mean when you use the phrase</p>	<p style="text-align: right;">43</p> <p>1 enforcement encounter or a certain mission where</p> <p>2 something is rapidly evolving?</p> <p>3 A I would use the immediate case. When a</p> <p>4 person is encountered in a unique set of</p> <p>5 circumstances, unusual in that they are not clothed</p> <p>6 and acting in an erratic fashion. When you</p> <p>7 initially verbally communicate with them, they turn</p> <p>8 to you, but then they basically rush you. That</p> <p>9 rushing would, in my mind, be a rapidly evolving</p> <p>10 situation.</p> <p>11 Q Can an officer's actions cause a situation</p> <p>12 to become rapidly evolving as well?</p> <p>13 A They may. We don't truly control people.</p> <p>14 We simply control ourselves. How a person reacts to</p> <p>15 that is in many cases, of course, unknown. So an</p> <p>16 officer certainly could do something that is good</p> <p>17 police practice with good intentions that have a</p> <p>18 negative outcome.</p> <p>19 Q Have you written articles on a phrase that's</p> <p>20 known as officer created jeopardy?</p> <p>21 A I think I wrote the first one in the mid</p> <p>22 '90s.</p> <p>23 Q And one scenario of officer created jeopardy</p> <p>24 is, if you step close to a mentally ill person with</p> <p>25 a knife, why are they supposed to do something with</p>
<p style="text-align: right;">42</p> <p>1 rapidly evolving? What does that mean in your</p> <p>2 field, sir?</p> <p>3 A A set of circumstances that are quickly</p> <p>4 developing where an officer might have competing</p> <p>5 priorities related to time. Where it is not a</p> <p>6 static environment, but a quickly-moving environment</p> <p>7 to where things have to occur because people are</p> <p>8 moving, circumstances are changing.</p> <p>9 Q Let's go back to the de-escalation for a</p> <p>10 second.</p> <p>11 Is a common theme on de-escalation</p> <p>12 and where the most trouble lies in your opinion</p> <p>13 interacting with the mentally ill where officers</p> <p>14 push tactically into an environment?</p> <p>15 A I do agree with that.</p> <p>16 Q The goal is to de-escalate by trying to</p> <p>17 solve without a physical confrontation, sir,</p> <p>18 correct?</p> <p>19 A I agree.</p> <p>20 Q You have testified that sometimes officers</p> <p>21 inappropriately take direct action when interacting</p> <p>22 with the mentally ill?</p> <p>23 A We have done that, yes, sir.</p> <p>24 Q Can you give me an example going back to</p> <p>25 rapidly evolving an example on a certain law</p>	<p style="text-align: right;">44</p> <p>1 that knife, correct?</p> <p>2 A I didn't hear that.</p> <p>3 Q Let me break it up into two questions.</p> <p>4 Did one of your articles focus on</p> <p>5 officer created jeopardy in the context of dealing</p> <p>6 with the mentally ill?</p> <p>7 A Yes, sir.</p> <p>8 Q And one scenario that you wrote about for</p> <p>9 officer created jeopardy is, if you step close to a</p> <p>10 mentally ill person with a knife, you shouldn't be</p> <p>11 surprised if they do something with that knife?</p> <p>12 A Well said, yes, sir.</p> <p>13 Q In that scenario with a mentally ill</p> <p>14 individual, it's best to focus on the primary</p> <p>15 mission objective which is to make the scene safe</p> <p>16 and figure out a way absent the person taking</p> <p>17 aggressive action, to de-escalate, true?</p> <p>18 A That's exactly what I believe, yes, sir.</p> <p>19 Q The reason an officer wants to de-escalate</p> <p>20 is the person is not thinking clearly, the mentally</p> <p>21 ill scenario we talked about?</p> <p>22 A Well, that's not the only reason, but that's</p> <p>23 a primary reason, yes, sir.</p> <p>24 Q Sometimes that person will see you as a</p> <p>25 police officer and they don't recognize the</p>

11 (Pages 41 to 44)

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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">45</p> <p>1 obligation to submit?</p> <p>2 A Agreed.</p> <p>3 Q As compared to other people, they're not</p> <p>4 likely to react to a police officer's orders as</p> <p>5 compared to the general population?</p> <p>6 A That's a good way to characterize it, yes,</p> <p>7 sir.</p> <p>8 Q What is a reactionary gap, sir?</p> <p>9 A That's space or distance in which an officer</p> <p>10 is reasonably expected to be able to make a quick</p> <p>11 decision should that situation become dangerous, the</p> <p>12 person advance. Different instructors teach it</p> <p>13 different.</p> <p>14 In a common interview situation,</p> <p>15 about 6 feet is considered the reactionary gap, and</p> <p>16 I've seen trainers go back to as far as 21 feet, but</p> <p>17 in my experience, about 6 feet is ordinarily</p> <p>18 referred to as the reactionary gap.</p> <p>19 Q Are there certain variables or factors that</p> <p>20 affect the distance that a reactionary gap must be</p> <p>21 maintained between the officer and the suspect or</p> <p>22 individual?</p> <p>23 A Yes, sir.</p> <p>24 Q And what are some of those variables or</p> <p>25 factors?</p>	<p style="text-align: right;">47</p> <p>1 your potential for physical interaction goes up and</p> <p>2 when that potential goes up, the potential for</p> <p>3 injury arises as well.</p> <p>4 Q As the reactionary gap closes, your time to</p> <p>5 react to contingencies become shorter?</p> <p>6 A It does.</p> <p>7 Q The closer you are to a suspect, the greater</p> <p>8 possibility there is a risk?</p> <p>9 A That's statistically true, yes, sir.</p> <p>10 Q As officer risk goes up, there is oftentimes</p> <p>11 a parallel with subject risk?</p> <p>12 A No doubt about that.</p> <p>13 Q In some cases as the officer risk increases,</p> <p>14 so does the potential for force being used?</p> <p>15 A No doubt about that.</p> <p>16 Q Especially when you're dealing with somebody</p> <p>17 who is mentally unstable or on drugs?</p> <p>18 A The only clarification I would give you is</p> <p>19 that that perception exists that, for example,</p> <p>20 persons who are affected by mental illness are</p> <p>21 inherently more dangerous. I don't think statistics</p> <p>22 bear that out. I think unpredictable would be a</p> <p>23 better assessment. Just not likely to be able to</p> <p>24 predict what they'll do.</p> <p>25 Q Is it your -- I think you said this, but is</p>
<p style="text-align: right;">46</p> <p>1 A The most significant factor being the</p> <p>2 potential for immediate jeopardy. If an individual</p> <p>3 was armed with a knife, you would certainly want to</p> <p>4 keep a much greater distance than that with an</p> <p>5 unarmed person, so it's basically a concept of</p> <p>6 reactionary gap for threat assessment. You are</p> <p>7 trying to give yourself time to make decisions, be</p> <p>8 close enough to communicate and work with the call,</p> <p>9 but also be far enough back that you have time to</p> <p>10 make a decision.</p> <p>11 Q If there is a threat assessment through open</p> <p>12 hand, through closed hand, through knife, through</p> <p>13 gun? Obviously, that officer should leave a</p> <p>14 reactionary gap until they can assess the situation,</p> <p>15 correct?</p> <p>16 A If they can. If safe and practical, yes,</p> <p>17 sir.</p> <p>18 Q Can that reactionary gap be closed, be</p> <p>19 narrowed, be limited?</p> <p>20 A It can by both officer suspect or</p> <p>21 combination of the two.</p> <p>22 Q What happens when officers close a</p> <p>23 reactionary gap?</p> <p>24 A It certainly depends on what the suspect</p> <p>25 does, but clearly if you're closer to a suspect,</p>	<p style="text-align: right;">48</p> <p>1 it your belief that closing the reactionary gap</p> <p>2 increases the likelihood of injury or death to the</p> <p>3 officer or the citizens?</p> <p>4 A All things equal, the closer you are to a</p> <p>5 person, the more likely you are to be susceptible to</p> <p>6 an attack, so generally, that would be true, but</p> <p>7 obviously, the vast majority of police encounters</p> <p>8 closely with citizens don't result in anybody being</p> <p>9 injured.</p> <p>10 Q Going back to officer created jeopardy for</p> <p>11 one second, can the officer's actions create their</p> <p>12 own jeopardy where it causes them to use force when</p> <p>13 it would not have been otherwise necessary?</p> <p>14 A It can.</p> <p>15 Q Let's take a short break.</p> <p>16 (Recess taken.)</p> <p>17 VIDEOGRAPHER: Off the record at 9:44.</p> <p>18 (Recess taken.)</p> <p>19 VIDEOGRAPHER: Back on the record at 9:53 in</p> <p>20 the deposition of Steve Ijames. This begins disc</p> <p>21 two.</p> <p>22 QUESTIONS BY MR. JOHNSON:</p> <p>23 Q Mr. Ijames, we understand in this case that</p> <p>24 on September 17, 2011 at approximately 6:45 a.m.</p> <p>25 Ferguson Police Department officers were dispatched</p>

12 (Pages 45 to 48)

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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">49</p> <p>1 to the area of Airport and North Marguerite Roads in 2 Ferguson, Missouri, true? 3 A True. 4 Q Is that the factual backdrop to the law 5 enforcement canon that we're here for this morning? 6 A Yes, sir. 7 Q What was the reason that officers were 8 dispatched to that scene? 9 A There were multiple 911 calls concerning an 10 individual who was in the road, was pushing on cars, 11 was -- had disrobed and I don't recall the exact 12 number. I listened to all of them, but there were 13 multiple calls from people who had an individual who 14 was concerning to them. 15 Q I understand, based on the documents 16 produced in this case, Officer White received his 17 dispatch at approximately 6:46 a.m.? 18 A I think it was very close to the time of the 19 calls, yes, sir. 20 Q And what time did Officer Kaminski arrive to 21 the scene after receiving dispatch? 22 A I don't recall the exact time from memory, 23 sir. 24 Q Any reason to dispute it's 6:49 a.m.? 25 A Oh, no, sir. It was close to the call time.</p>	<p style="text-align: right;">51</p> <p>1 lower than that, but you could have probable cause, 2 but go ahead and just handle it as a detention to 3 investigate. 4 Q Was there probable cause to arrest Mr. Moore 5 based solely on the telephone calls of the Ferguson 6 Police Department from the citizenry? 7 A I think from the 911 calls and what was 8 dispatched, and the officer arriving, I think there 9 would have been probable cause to make an arrest if 10 the officer had chose to. 11 Q For what offense or crime? 12 A There would have been a number. It would 13 have met the burden of probable cause, and to 14 clarify, not necessarily saying an officer would 15 have done that. But under Missouri statute, you 16 would have at least an exposure, you could have 17 obstruction of traffic, you could have a peace 18 disturbance. There are a number of things that 19 conceivably you could have the elements of a crime 20 and probable cause to arrest. 21 Q Do you know whether the City of Ferguson in 22 its code of ordinances as of September of 2011 had 23 an ordinance concerning indecent exposure? 24 A I just don't know if they did or not. I 25 know the state statute is there.</p>
<p style="text-align: right;">50</p> <p>1 Q And Officer White, did he arrive one minute 2 later? 3 A I think approximately one minute later, yes, 4 sir. 5 Q What was the operational objective at 6 arrival of Officer Kaminski? 7 A In my opinion it would have been initial 8 scene stabilization. It's impossible to determine 9 what is factually occurring until you make the scene 10 safe, so the primary mission objective initially 11 would be scene stabilization. 12 Q There are three law enforcement encounters 13 that a law enforcement officer can have, correct? 14 A Generally. 15 Q Arrest? 16 A Detention and then consensual encounter. 17 There may be something else out there, but those are 18 the three we mostly operate under. 19 Q How does investigatory stop, where does that 20 fit into the matrix? 21 A It's a detention. I mean, that's the 22 answer, it's a detention. 23 Q If there is an investigatory stop, is there 24 probable cause that a crime has been committed? 25 A Not necessarily. I mean, in most cases it's</p>	<p style="text-align: right;">52</p> <p>1 Q And the state statute, the similar provision 2 at least existing at one point in our lifetime in 3 Missouri, was 566.130? 4 A I will believe that's correct, sir. 5 Q It's now been codified into 566.093. 6 Any reason to dispute that, sir? 7 A No, sir, I don't. 8 Q The Ferguson ordinance on indecent exposure, 9 I'll represent to you, it cites to a similar 10 provision under Missouri law and it states, "A 11 person commits the offense of indecent exposure if 12 he" I guess she can do it "knowingly exposes his 13 genitals under circumstances in which he knows that 14 his conduct is likely to cause affront or alarm." 15 Based on your background, training, 16 experience in law enforcement, is that a fair 17 characterization of indecent exposure? 18 A It is, sir. 19 Q And under Missouri law, that offense, if 20 committed, is a Class B misdemeanor? 21 A Agreed. 22 Q Class A if it's done more than once? 23 A Agreed. 24 Q So is it your understanding in this matter 25 that Mr. Moore, at least through the contact made by</p>

13 (Pages 49 to 52)

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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">53</p> <p>1 the citizenry to the Ferguson Police Department, had 2 been accused of violating a municipal code? 3 A Well, from the citizen contacting, I don't 4 think they know municipal from state statute, but 5 those elements we discussed and I left one out. 6 Conceivably an assault where you have citizens on 7 the roadway with that suspect, I'm confident many 8 would be having the elements, not that they're you 9 know, physically threatened, but they would be 10 alarmed and fear, et cetera, so you would have other 11 elements including assault, but I don't know if 12 citizens get that. The officers would. 13 Q What facts did Mr. -- Officer Kaminski have 14 that suggested that Mr. Moore had committed assault 15 on a person prior to him arriving at the scene the 16 morning of September 17? 17 A The only thing he would have had, and again 18 we're talking probable cause which is relatively 19 weak, would be that a naked individual in the 20 roadway hitting on vehicles. 21 When you look at the Missouri statute 22 elements of assault, that would certainly create 23 fear and affront and alarm. Would we ultimately 24 prosecute someone for that, probably not, but I 25 think the elements would be there.</p>	<p style="text-align: right;">55</p> <p>1 A True. 2 Q And surely, based on your review of the 3 materials in this case, you have reviewed this 4 report? 5 A I have. 6 Q The assault third, did you gain an 7 understanding through your review of records in this 8 case, that this was being reported as a third degree 9 assault on Officer Kaminski? 10 A Correct. 11 Q And the indecent exposure obviously would be 12 related to the fact that we had a naked man running 13 around? 14 A Yes, sir. 15 Q In your background, training and experience 16 working in law enforcement in the State of Missouri, 17 are the two offenses cited on Ferguson based on one, 18 misdemeanor level offenses? 19 A They are, sir. 20 Q Was any of the conduct engaged in by Mr. 21 Moore that was the subject of the statements made by 22 the citizenry to the Ferguson Police Department 23 dispatch committed in Officer Kaminski's presence? 24 A The only one obviously would be the nudity. 25 Q Were any -- was any of that conduct engaged</p>
<p style="text-align: right;">54</p> <p>1 Q You agree that Officer Kaminski spoke to one 2 citizen on the street before arriving at the scene? 3 A Yes, sir. There was a black female driver 4 just moments before that he interacted with. 5 Q Officer Kaminski described this black female 6 as not frightened, true? 7 A I believe that's what he said, right. 8 Q And the call Officer Kaminski received was 9 for a naked man beating on cars? 10 A Yes, sir, correct. 11 Q The very first document that the defendants 12 produced in this case is the face or cover sheet of 13 the Ferguson Police Department Investigative Report. 14 You recall seeing this report, 15 correct? 16 A I have read that, yes, sir. 17 Q In the upper left hand portion of Bates 18 Number 1 produced by Ferguson in this case, the 19 offense cited as assault third slash indecent 20 exposure. 21 Did I read that correctly? 22 A I don't have it in front of me, but I 23 believe that's what it said. 24 Q And I apologize, I don't have more than one 25 copy, but I'll represent to you that's what it says?</p>	<p style="text-align: right;">56</p> <p>1 in by Mr. Moore that was the subject of the 2 statements made by the citizenry to the Ferguson 3 Police Department committed in any, in the presence 4 of any Ferguson Police Department officer prior to 5 Officer Kaminski arriving at the scene of North 6 Marguerite and Airport? 7 A No, sir. 8 Q In Missouri, in 2011, could Officer Kaminski 9 have arrested Mr. Moore for indecent exposure based 10 only on the citizenry telephone calls to the police 11 department? 12 A He could have. You're saying if he arrived 13 and found him clothed could he have? 14 Q Sure. 15 A Sure, he could have. 16 Q When Mr. -- when Officer Kaminski arrived at 17 North Marguerite and Airport, were there any 18 citizens in the area other than Mr. Moore? 19 A I can only say that the officer at that 20 point had characterized the traffic as for that 21 morning heavy, but I don't recall if there was 22 anyone else on foot that he saw. 23 Q And consistent with your obligations to 24 objectively look at the facts presented to you, 25 there is some conflict as to the description of the</p>

14 (Pages 53 to 56)

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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">57</p> <p>1 traffic patterns that morning, correct?</p> <p>2 A Yes, sir. I could clarify if you want me</p> <p>3 to, but yes, the answer is yes.</p> <p>4 Q Absolutely.</p> <p>5 A I recall Officer White saying that his lane</p> <p>6 of traffic was in his mind very light and then you</p> <p>7 likewise have the witnesses, citizen witnesses, who</p> <p>8 said that it's always a busy area and then</p> <p>9 Lieutenant Ballard testifying that he was directing</p> <p>10 traffic, but ultimately what matters is what</p> <p>11 Kaminski had when he was there at that moment, and</p> <p>12 of course, no one knows that but Kaminski.</p> <p>13 Q Because the other witness to that law</p> <p>14 enforcement encounter is deceased?</p> <p>15 A That's correct, sir.</p> <p>16 Q When Officer Kaminski arrived to the scene</p> <p>17 of the encounter with Mr. Moore, he knew that there</p> <p>18 were other Officers dispatched on this occurrence,</p> <p>19 correct?</p> <p>20 A He did.</p> <p>21 Q Through your review of dispatch records or</p> <p>22 reports or other documents presented to you, do you</p> <p>23 have an understanding how many different Officers in</p> <p>24 this quadrant or section or however they describe it</p> <p>25 or the zone or the beat that Ferguson had in</p>	<p style="text-align: right;">59</p> <p>1 traffic roadway in the condition where you might be</p> <p>2 jumping in and out of traffic, that places you in</p> <p>3 harm or potential danger.</p> <p>4 Q Tell me all the evidence you relied on in</p> <p>5 this case that the law enforcement encounter between</p> <p>6 Mr. Moore and Officer Kaminski was tense?</p> <p>7 A The -- the evidence I'm relying on would</p> <p>8 mostly be personal knowledge, training and</p> <p>9 experience. When you receive a call of that nature,</p> <p>10 though it isn't unheard of, it's not a regular daily</p> <p>11 call that a naked person is jumping in and out of</p> <p>12 traffic and slamming on vehicles, and just to be</p> <p>13 candid, persons in that particular circumstance are</p> <p>14 unpredictable and I guess my answer would be mostly</p> <p>15 on personal experience there's tension there and</p> <p>16 concern about what this person might do and what</p> <p>17 they might do with other citizens, so it's simply</p> <p>18 not a calm call for service because it's an unusual</p> <p>19 call for service.</p> <p>20 Q And would you rely on the same background,</p> <p>21 training and experience in general evidence to</p> <p>22 describe this situation as uncertain?</p> <p>23 A I would, sir.</p> <p>24 Q And rapidly evolving?</p> <p>25 A It wasn't rapidly evolving immediately. It</p>
<p style="text-align: right;">58</p> <p>1 September of 2011, how many different officers were</p> <p>2 dispatched on this particular call?</p> <p>3 A I don't recall how many were dispatched. I</p> <p>4 believe that four ultimately arrived and frequently</p> <p>5 officers will show up who weren't dispatched, so I</p> <p>6 can't give you an exact number.</p> <p>7 Q Were there any citizens, other than Mr.</p> <p>8 Moore, in harm's way as you write in your report</p> <p>9 when Officer Kaminski first encountered him?</p> <p>10 A I would answer yes, generally, that being</p> <p>11 any motorist who would have drove along who he might</p> <p>12 have jumped out in front of, and I'm talking</p> <p>13 hypothetically because we don't know that to have</p> <p>14 occurred, so the harm is a potential harm, not an</p> <p>15 inherent one as though someone was standing right</p> <p>16 next to him.</p> <p>17 Q Sure. When Officer Kaminski first arrived</p> <p>18 to the encounter with Mr. Moore, you write that Mr.</p> <p>19 Moore was in immediate danger.</p> <p>20 Did I read that correctly, sir?</p> <p>21 A I believe so.</p> <p>22 Q How was Mr. Moore in immediate danger upon</p> <p>23 Officer Kaminski's initial arrival to this law</p> <p>24 enforcement encounter?</p> <p>25 A It's my opinion, if you're standing along a</p>	<p style="text-align: right;">60</p> <p>1 became rapidly evolving, but yes, sir, that's</p> <p>2 correct.</p> <p>3 Q When Officer Kaminski first arrived, there</p> <p>4 is no evidence that Mr. Moore had injured a person?</p> <p>5 A No, sir.</p> <p>6 Q Including himself?</p> <p>7 A Correct.</p> <p>8 Q When Officer Kaminski first arrived to the</p> <p>9 scene of the encounter at or about the intersection</p> <p>10 of North Marguerite and Airport Road, he did not</p> <p>11 have information from citizens he spoke with that</p> <p>12 led him to believe that any citizens were at an</p> <p>13 imminent risk of harm by Mr. Moore?</p> <p>14 A I agree.</p> <p>15 Q When Officer Kaminski first arrived at the</p> <p>16 scene, did Jason Moore pose an imminent risk of harm</p> <p>17 to Officer Kaminski?</p> <p>18 A No, sir.</p> <p>19 Q Did Officer Kaminski radio dispatch with the</p> <p>20 City of Ferguson to determine whether Officers</p> <p>21 White, Bebe or other law enforcement personnel as to</p> <p>22 their locations before he encountered Mr. Moore?</p> <p>23 A I don't believe that he did.</p> <p>24 Q When Officer Kaminski first arrived to the</p> <p>25 scene of his encounter with Mr. Moore, would you</p>

15 (Pages 57 to 60)

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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">61</p> <p>1 agree with me that Mr. Moore was displaying evidence 2 of a psyche or medical emergency situation? 3 A From a police officer's perspective, I would 4 not. 5 Q Would you agree with me that, when Officer 6 Kaminski first arrived to the encounter with Mr. 7 Moore, that Mr. Moore was naked? 8 A I would agree with that. 9 Q That Officer Kaminski had heard that he was 10 running around in the street? 11 A Correct, sir. 12 Q That officers with the City of Ferguson had 13 heard Mr. Moore yelling I am King? 14 A At the point that he arrived officers had 15 heard that? 16 Q Yes. 17 A I'm not aware of that that officers heard 18 that before Kaminski arrived. 19 Q That officers had heard that Mr. Moore was 20 beating on property? 21 A That was dispatched to them, yes, sir. 22 Q When Officer Kaminski first arrived to the 23 scene of this encounter with Mr. Moore, Mr. Moore 24 was mumbling? 25 A I believe so, yes, sir.</p>	<p style="text-align: right;">63</p> <p>1 Q When Officer Kaminski first encountered Mr. 2 Moore, Mr. Moore did not possess a weapon? 3 A Never did that I know of. 4 Q Based on your review of the documents and 5 evidence in this case, did Mr. Moore ever possess a 6 weapon such as a handgun? 7 A No, sir. 8 Q Or firearm? 9 A No, sir. 10 Q Knife? 11 A No, sir. 12 Q When Officer Kaminski first encountered Mr. 13 Moore, he was 25 to 30 feet away from Mr. Moore, 14 true? 15 A Approximately, yes, sir. 16 Q And where was Mr. Moore positioned with 17 respect to any vehicles whether they be vehicles 18 operating on Airport Road or vehicles that were 19 located in the parking lot where this encounter 20 occurred? 21 A I don't recall any reference to vehicles on 22 the roadway at that particular moment, nor do I on 23 any parked in the parking lot. 24 Q How far from the roadway was Mr. Moore when 25 Officer Kaminski first encountered him September</p>
<p style="text-align: right;">62</p> <p>1 Q Is mumbling evidence or a verbal cue 2 associated with a person in psyche or medical 3 emergency or a psyche or medical situation? 4 MS. SHAFIAIE: Object to foundation. You can 5 answer. 6 A I would simply say that an officer, a 7 reasonably trained prudent officer in Missouri would 8 characterize that as unusual there. Statistical 9 common sense what that probably is is more likely a 10 drug-induced problem, but certainly an officer can't 11 say for certain. 12 So your description of that 13 particular characteristic I would simply say an 14 officer would recognize that as unusual but, as far 15 as a diagnosis there at the patrol car, I don't 16 think that's going to happen. 17 Q What were the differential diagnoses that 18 Officer Kaminski thought of Mr. Moore when he first 19 encountered him? 20 A Potentially mentally ill on some type of 21 drugs or alcohol, that sort of thing. 22 Q Can mumbling be a verbal cue of a person in 23 a psyche or medical emergency? 24 MS. SHAFIAIE: Foundation. You can answer. 25 A Yes, sir.</p>	<p style="text-align: right;">64</p> <p>1 17th? 2 A I think he was right along the curb. 3 Q Would that be the curb adjacent to Airport 4 Road? 5 A I believe so. 6 Q This case involves a use of force, true? 7 A It does, sir. 8 Q This case involves the use of force 9 involving a TASER? 10 A It does, sir. 11 Q Is there a specific model of TASER that this 12 case involves? 13 A An X26. 14 Q What's the difference, and without getting 15 too technical, between the X26 and the M26? 16 A The primary difference and I will avoid 17 technical info. I'll just say that TASER claims 18 there's circuitry from M to X has dramatically 19 improved, more efficient. It provides enhanced 20 download data capability and it uses a different 21 kind of battery system. That's pretty much it. 22 Q Is a generic way of saying that the M26 was 23 the predecessor to the X26? 24 A It is. 25 Q You wrote about the M26, true?</p>

16 (Pages 61 to 64)

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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">65</p> <p>1 A I did.</p> <p>2 Q You described it as hand-held lightning?</p> <p>3 A I think that's what the article was titled.</p> <p>4 Q Your article?</p> <p>5 A My article.</p> <p>6 Q You reviewed the Ferguson use of force</p> <p>7 policy?</p> <p>8 A I did.</p> <p>9 Q And did you review the Ferguson use of force</p> <p>10 policy as it relates to the use of the TASER ECW?</p> <p>11 A I did, sir.</p> <p>12 Q What training did Officer Kaminski receive</p> <p>13 through the Ferguson Police Department agency only</p> <p>14 as it relates to the use of the TASER?</p> <p>15 A He was a Taser instructor that was</p> <p>16 coordinated by the agency. I don't recall if the</p> <p>17 master instructor was a Ferguson person or not, but</p> <p>18 he was an instructor at the time of this incident.</p> <p>19 Q Did your review of the materials indicate</p> <p>20 that the City of Ferguson utilized any training on</p> <p>21 the use of the Taser ECW as promulgated by IACP?</p> <p>22 A Not that I'm aware of.</p> <p>23 Q Or PERF?</p> <p>24 A Not that I'm aware of.</p> <p>25 Q Or TASER International?</p>	<p style="text-align: right;">67</p> <p>1 trained that TASERs are not authorized to coerce</p> <p>2 compliance when there is no imminent physical</p> <p>3 threat?</p> <p>4 A I would have to answer that the same way,</p> <p>5 sir.</p> <p>6 Q Did the Ferguson Police Department adopt</p> <p>7 IACP policy that, if you're firing the ECW, the</p> <p>8 officer shall engage the subject in the least number</p> <p>9 of times and no longer necessary to accomplish the</p> <p>10 legitimate operational objective?</p> <p>11 A In the first part of that, sir, are you</p> <p>12 saying in this case is what they did?</p> <p>13 Q Right.</p> <p>14 A I believe so.</p> <p>15 Q And did they adopt that through their use of</p> <p>16 force policies, their standing orders?</p> <p>17 A I don't recall if that was specifically</p> <p>18 referenced in their -- their policy.</p> <p>19 Q What on the use of force continuum that</p> <p>20 Ferguson had in effect as of September of 2011,</p> <p>21 where did the TASER fall into that use of force</p> <p>22 continuum, sir?</p> <p>23 A I believe they had it characterized as an</p> <p>24 intermediate weapon.</p> <p>25 Q Are you familiar with the warning from TASER</p>
<p style="text-align: right;">66</p> <p>1 A I think the training material would have</p> <p>2 been TASER's Version 17 which continues today to be</p> <p>3 basically the gold standard. The manufacturer</p> <p>4 training of what pretty much everybody does.</p> <p>5 Q Is the Version 17 of TASER International's</p> <p>6 literature on its devices, was that the version in</p> <p>7 effect as of September 17, 2011?</p> <p>8 A Yes, sir, I believe it was.</p> <p>9 Q What evidence did you see in this case that</p> <p>10 Officer Kaminski was educated on the most recent</p> <p>11 version of TASER International's literature on its</p> <p>12 product prior to September 17, 2011?</p> <p>13 A The only thing I had was the Version 17</p> <p>14 handout which was what I believe was in effect from</p> <p>15 2010 until 2012.</p> <p>16 Q Do you know whether or not officers with the</p> <p>17 Ferguson Police Department would have been trained</p> <p>18 that TASERS are not authorized to gain compliance</p> <p>19 where there is no imminent physical threat?</p> <p>20 A That's consistent with the lesson plan and</p> <p>21 if we're assuming that they actually got every slide</p> <p>22 of the lesson plan they would have been trained in</p> <p>23 that.</p> <p>24 Q Do you know whether or not officers within</p> <p>25 the Ferguson Police Department would have been</p>	<p style="text-align: right;">68</p> <p>1 International with regard to the use of the TASER in</p> <p>2 and around the upper chest air area?</p> <p>3 A I am, sir.</p> <p>4 Q When did that first come into effect in your</p> <p>5 field?</p> <p>6 A November 2010.</p> <p>7 Q Do you have an understanding or have you</p> <p>8 gained an understanding based on your work in this</p> <p>9 field why TASER International issued that warning?</p> <p>10 A Yes, sir.</p> <p>11 Q What is that?</p> <p>12 A I believe that TASER in November of 2010</p> <p>13 made the chest area not a quote preferred target but</p> <p>14 a prohibited target because they believed that there</p> <p>15 was evidence that shots, as it relates to their</p> <p>16 terminology heart to dart proximity, increased the</p> <p>17 possibility of a negative outcome and I think that's</p> <p>18 the reason they did that.</p> <p>19 Q Negative outcome including serious injury or</p> <p>20 death?</p> <p>21 A Correct.</p> <p>22 Q And as of September 2011, do you know if the</p> <p>23 standing orders within the Ferguson Police</p> <p>24 Department attempted to incorporate that warning by</p> <p>25 TASER International into their use of force</p>

17 (Pages 65 to 68)

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<p style="text-align: right;">69</p> <p>1 policies?</p> <p>2 A I don't believe it was written down the</p> <p>3 policies, no, sir.</p> <p>4 Q Was it even referenced through a diagram or</p> <p>5 through a schematic in those policies?</p> <p>6 A Not on the policies. It would have been in</p> <p>7 the training, again, assuming that the version put</p> <p>8 forth was in fact taught and I believe that it was.</p> <p>9 Q The TASER X26 has if it's used in the probe</p> <p>10 function, there are two probes, is that correct,</p> <p>11 sir?</p> <p>12 A Yes, sir.</p> <p>13 Q Do you define or identify those probes as an</p> <p>14 upper probe, lower probe, controlled probe,</p> <p>15 non-controlled probe? Are there definitional --</p> <p>16 A Top and bottom.</p> <p>17 Q -- top and bottom?</p> <p>18 A That would describe it, yes, sir.</p> <p>19 Q And when an individual sights or aims the</p> <p>20 TASER X26, which of those probes is supposed to go</p> <p>21 where the sight is aimed?</p> <p>22 A The top row.</p> <p>23 Q And the top to me means the spread on those</p> <p>24 probes means the top would be on the top and the</p> <p>25 bottom would be on the bottom?</p>	<p style="text-align: right;">71</p> <p>1 Q And your review of the testimony in this</p> <p>2 case is that -- and the documents, I'm sorry, is it</p> <p>3 Officer Kaminski fired his TASER X26 at Mr. Moore</p> <p>4 from a distance of 8 to 10 feet?</p> <p>5 A I believe so.</p> <p>6 Q Did your review of the documents and</p> <p>7 testimony in this case indicate that there were any</p> <p>8 officers at the scene of the occurrence with Officer</p> <p>9 Kaminski before he discharged his TASER ECW for the</p> <p>10 first time?</p> <p>11 A No, sir.</p> <p>12 Q The second time?</p> <p>13 A Not for the material I reviewed, no, sir.</p> <p>14 Q The third time?</p> <p>15 A I believe, based on the material I reviewed,</p> <p>16 White would have been arriving, but probably not out</p> <p>17 of his vehicle at about the third time.</p> <p>18 Q The fourth time?</p> <p>19 A I think he was running up while the fourth</p> <p>20 was in progress and that's when he was able to</p> <p>21 handcuff under power.</p> <p>22 Q He, meaning Officer White?</p> <p>23 A Yes, sir.</p> <p>24 Q The fifth time?</p> <p>25 A I don't think there was a fifth.</p>
<p style="text-align: right;">70</p> <p>1 A Yes, sir. The top probe in theory is</p> <p>2 aligned with the sights and the laser, and the</p> <p>3 bottom probe leads at an 8-degree angle. So if the</p> <p>4 device is held perfectly straight for about every</p> <p>5 7 feet you fly, you get about a 12-inch spread.</p> <p>6 Q So absent malfunction, the top probe would</p> <p>7 enter and anchor into the individual above the lower</p> <p>8 probe?</p> <p>9 A It should always unless the device is turned</p> <p>10 in some odd fashion, yes, sir.</p> <p>11 Q Upside down, sideways?</p> <p>12 A Yes, sir. Certainly.</p> <p>13 Q Officers are trained to hold it up and down?</p> <p>14 A And avoid canting it so the idea is to hold</p> <p>15 it straight up and down, yes, sir.</p> <p>16 Q The top probe in this case was in Mr.</p> <p>17 Moore's left upper chest area, true?</p> <p>18 A In my opinion, yes, sir, that would be the</p> <p>19 top probe.</p> <p>20 Q The lower probe was in his -- near his groin</p> <p>21 or his hip area, true?</p> <p>22 A Yes, sir.</p> <p>23 Q You reviewed photographs in this case of Mr.</p> <p>24 Moore in his autopsy, correct?</p> <p>25 A I believe that I did.</p>	<p style="text-align: right;">72</p> <p>1 Q You think there were four cycles?</p> <p>2 A I think that's what the download data</p> <p>3 reveals, yes, sir.</p> <p>4 Q Did you listen to the citizenry calls to the</p> <p>5 Ferguson dispatch or communications department</p> <p>6 September 17, 2011?</p> <p>7 A I listened to all of them, yes, sir.</p> <p>8 Q Do you recall the 6:51 and 50 second call</p> <p>9 where the Ferguson dispatch or communications</p> <p>10 individual indicated that officers are out there?</p> <p>11 A I do recall a male dispatch call taker</p> <p>12 answering a number of questions and, as you</p> <p>13 mentioned that one, I actually do now recall what I</p> <p>14 think was probably not accurate. I think he meant</p> <p>15 officers are on the way, but the timing of that I</p> <p>16 recall thinking there was a reference made to</p> <p>17 officers being there when in fact they were still</p> <p>18 getting calls, if that's what you're asking.</p> <p>19 I believe there was a bit of a</p> <p>20 conflict in my mind that certainly the evidence</p> <p>21 doesn't indicate to be factual. It was a person</p> <p>22 responding to lots of calls who was basically</p> <p>23 hanging up and answering one after another we're</p> <p>24 coming, et cetera.</p> <p>25 Q I'll be more specific then. There is a call</p>

18 (Pages 69 to 72)

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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">73</p> <p>1 two minutes later at 6:53:10. 2 Do you recall that Ferguson 3 communications or dispatch person indicating to the 4 citizen that officers are out there with him now? 5 A I do. 6 Q And that dispatcher is a Ferguson Police 7 Department employee as you understand it, correct? 8 A I believe so. 9 Q The first use or initial deployment or 10 application of the TASER ECW in this case is at 11 6:53:17. 12 Is that what the download data shows? 13 A That is what the date time stamp is on the 14 TASER itself, yes, sir. 15 Q So if you were to attempt to correlate or 16 coalesce the 6:53 at 10 second call that said 17 officers are out there with him now, and the first 18 use of the TASER seven seconds later, that would 19 mean that a Ferguson Police Department employee is 20 using his TASER weapon on Mr. Moore seven seconds 21 after a Ferguson Police Department employee informs 22 the public that officers are out there with him now? 23 MS. SHAFIAE: Object to form and foundation. 24 You can answer. 25 A That would have to assume, sir, that the</p>	<p style="text-align: right;">75</p> <p>1 Q What was the probe spread of the two darts 2 that struck Mr. Moore? 3 A I think it's about 2 feet. 4 Q Is there a spread distance that results in 5 solid neuromusculature incapacitation, sir? 6 A It does vary on individuals but, in my 7 opinion, less than 12 inches is not likely to result 8 in that. 9 Q And what was the spread distance between the 10 upper probe and lower probe top dart and lower dart 11 in this case? 12 A I think about 2 feet. 13 Q Did Mr. Moore go to the ground after the 14 first application? 15 A He did, sir. 16 Q Did he brace himself before he struck the 17 pavement? 18 A He did not that I'm aware of. 19 Q You agree that Mr. Moore experienced 20 neuromuscular incapacitation to some degree after 21 the first deployment of the TASER? 22 A I think it was effective based on what the 23 officer said. 24 Q The evidence in this case is that Kaminski 25 observed Mr. Moore lock up after the first use,</p>
<p style="text-align: right;">74</p> <p>1 TASER clock time was accurate with the dispatch time 2 which, in my experience, never occurs. 3 Q (By Mr. Johnson) If it is accurate, it is 4 more than three minutes after Officer White writes 5 down in his report that at 6:50 a.m. he is at North 6 Marguerite and Airport Road? 7 A If it's assumed those times are accurate, 8 that would be true. 9 Q Mr. Moore did not physically batter Officer 10 Kaminiski, did he? 11 A He did not. 12 Q Did he physically batter Officer White? 13 A He did not. 14 Q Did he physically batter any Ferguson Police 15 Department Officer September 17, 2011? 16 A No, sir. 17 Q Did he physically injury any member of the 18 public or any citizen on that date? 19 A No, sir. 20 Q The first application of the TASER, the top 21 probe connected with Mr. Moore in his upper left 22 chest area? 23 A Yes, sir. 24 Q Near his heart? 25 A Yes, sir.</p>	<p style="text-align: right;">76</p> <p>1 correct? 2 A Yes, sir. 3 Q At no point did Mr. Moore fully rise to his 4 feet after the first application of the TASER, 5 correct? 6 A I don't believe so. 7 Q After the first application of the TASER by 8 Officer Kaminski, Mr. Moore did not attempt to flee? 9 A I can only say that the officer's perception 10 was he was attempting to get backup. I don't know 11 what he intended to do. 12 Q You believe that PERF says you cannot use a 13 TASER on a fleeing suspect when flight alone is the 14 only reason you are using it? 15 A That's what PERF says, yes, sir. 16 Q And that was in effect that PERF policy 17 generically, generally was in effect as of 18 September 17, 2011? 19 A That was a PERF guideline at that point, 20 yes, sir. 21 Q In other words, you can't tase the runner? 22 A For only running, I agree with that. 23 Q After the first application of the TASER by 24 Officer Kaminski, Mr. Moore did not continue to 25 assault him, did he?</p>

19 (Pages 73 to 76)

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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">77</p> <p>1 A I think the officer's testimony is that his 2 attempts to get back up caused him to be concerned 3 that the assault that he had previously observed 4 would continue, but I don't think he ever was back 5 into a position to attempt to throw punches, that 6 sort of thing. 7 Q The only bodily movements that Officer 8 Kaminski observed after his first use of the TASER 9 was Mr. Moore getting up to his hands and knees, 10 true? 11 A That's true, sir. 12 Q No blows were thrown at any point once Mr. 13 Moore was down on his chest, hands and knees? 14 A No, sir. 15 Q Officer Kaminski described Mr. Moore after 16 the first use of the TASER as on his knees with his 17 torso facing the ground, correct? 18 A Correct, sir. 19 Q And his torso was approximately 6 inches 20 from the pavement after the first use of the TASER, 21 true? 22 A I just don't recall that. I believe you. I 23 just don't recall that from memory. 24 Q The evidence you reviewed in this case is 25 that at no point did Mr. Moore ever rise completely</p>	<p style="text-align: right;">79</p> <p>1 A They do, sir. 2 Q Once the TASER was used a second time on Mr. 3 Moore, you agree that the evidence showed Mr. Moore 4 stiffened up? 5 A Yes, sir. 6 Q Would that cause you to believe that he 7 experienced neuromuscular incapacitation to some 8 degree after the use the second time? 9 A It would. 10 Q Did your review of records in this case 11 indicate that Officer Kaminski was giving commands 12 to Mr. Moore while he was using the TASER on him? 13 A Yes, sir. 14 Q Did you review Officer White's deposition in 15 this case, sir? 16 A Yes, sir. 17 Q And you agree with me that Officer White's 18 testimony was that, when he first arrived to the 19 scene of the encounter between Officer Kaminski and 20 Mr. Moore, Mr. Moore was on his back at a distance 21 of 5 feet from Officer Kaminski with a probe in his 22 chest area? 23 A I agree with everything except the end. I 24 don't recall that Officer White ever said he saw the 25 probe location until he had rolled him over during</p>
<p style="text-align: right;">78</p> <p>1 to his knees? 2 A He did not. Or to his knees? 3 Q Yes, sir. That's an important question. 4 Let me rephrase it. 5 A Okay. 6 Q At no point after the first deployment of 7 the TASER by Officer Kaminski did Mr. Moore rise to 8 where his knees only were on the ground as opposed 9 to his hands and knees? 10 A I agree, sir. 11 Q Mr. Moore did not lunge at Officer Kaminski 12 after the first use of the TASER? 13 A No, sir. 14 Q His hands were never clenched after the 15 first use of the TASER, correct? 16 A Correct. 17 Q You agree that each use of force must 18 contain an independent justification for using that 19 force? 20 A I do, sir. 21 Q So as we apply it to the facts that you've 22 been hired on, the four times that Officer Kaminski 23 used the TASER X26 on Mr. Moore, each of those four 24 occasions where force was used have to contain an 25 independent justification for that force?</p>	<p style="text-align: right;">80</p> <p>1 the handcuffing process. 2 Q You agree that the first time Officer White 3 observed Officer Kaminski and Mr. Moore in some 4 proximity to each other, he was approximately 200 5 feet away while exiting his vehicle? 6 A Again, sir, just to be accurate, I don't 7 think he exited from 200 feet or he certainly 8 wouldn't have got there during the TASER cycle. I 9 think he was 100 or 200 away in his vehicle and I 10 think he drove much closer, but that is the first 11 time I think he said he laid eyes on him from about 12 that distance. 13 Q The IACP that you have been affiliated with 14 in the past, correct, sir? 15 A Yes, sir. 16 Q Do their guidelines and materials indicate 17 that an Officer must have grounds to arrest or 18 detain and based on the totality of the 19 circumstances that the Officer believes a physical 20 altercation is about to occur? 21 A I think that's verbatim out of the model 22 policy. 23 Q The TASER takes the fight out of the fire? 24 A That's the plan. That's the theory. 25 Q You don't use a TASER once the blows are</p>

20 (Pages 77 to 80)

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Tina Moore v. Brian Kaminski, et al.

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March 8, 2016

<p style="text-align: right;">81</p> <p>1 already thrown?</p> <p>2 A Well, I mean, you do to stop a continuous</p> <p>3 assault. I mean, there are cases where on this case</p> <p>4 where you are approaching with fists and we use the</p> <p>5 TASER, but then, once you start to get up, if there</p> <p>6 is concern about the recurring of the threat, you</p> <p>7 would sure it. I hope I'm being responsive. But</p> <p>8 just because blows are thrown doesn't mean you stop</p> <p>9 using the TASER.</p> <p>10 The idea there is to reduce the</p> <p>11 probability of injury to all involved. So if they</p> <p>12 are still combative or reasonably believed to be,</p> <p>13 you might use it again.</p> <p>14 Q You agree that a TASER should not be used on</p> <p>15 an individual displaying passive resistance?</p> <p>16 A I do agree with that.</p> <p>17 Q Passive resistance meaning non-compliance</p> <p>18 that doesn't help or hurt the officer's efforts.</p> <p>19 A That sounds very familiar language.</p> <p>20 Q It should be. Passive resistance meaning</p> <p>21 you don't cooperate, you don't physically try to</p> <p>22 hurt the officer or assault the officer?</p> <p>23 A I agree, sir.</p> <p>24 Q That's passive resistance.</p> <p>25 A I agree.</p>	<p style="text-align: right;">83</p> <p>1 administering to Mr. Moore after the first use of</p> <p>2 the TASER and while Mr. Moore was on the ground?</p> <p>3 A Stay on the ground, lay flat, get on the</p> <p>4 ground. I think that was repetitively what he was</p> <p>5 saying.</p> <p>6 Q Mr. Moore's acts then after those commands</p> <p>7 were given or administered would be Mr. Moore not</p> <p>8 doing what he was told to do?</p> <p>9 A It would be non-compliance with that, but</p> <p>10 that's not why you tase him. He's tased to prevent</p> <p>11 that non-compliance from turning into assaultive</p> <p>12 behavior.</p> <p>13 Q So while he was on his hands and knees,</p> <p>14 torso 6 inches away from the ground, was he actively</p> <p>15 and overtly assaulting Officer Kaminski at that</p> <p>16 point?</p> <p>17 A Based on your question, sir, my answer would</p> <p>18 be no.</p> <p>19 Q When Mr. Moore is on his back 5 feet away</p> <p>20 from Officer Kaminski, is he actively and overtly</p> <p>21 assaulting Officer Kaminski at that point?</p> <p>22 A Is he under the TASER cycle at that moment?</p> <p>23 Q Well, you reviewed Mr. White's testimony?</p> <p>24 Officer White, I'm sorry.</p> <p>25 A Right.</p>
<p style="text-align: right;">82</p> <p>1 Q Another definition is you don't do what</p> <p>2 you're told to do?</p> <p>3 A Yeah, I agree.</p> <p>4 Q And agencies you have worked with believe</p> <p>5 that, that a TASER should not be used on passive</p> <p>6 resisters.</p> <p>7 This goes back to 2001 or 2002 in</p> <p>8 your experience?</p> <p>9 A Well, there was a big transition. Certainly</p> <p>10 I've advocated that forever, but in the early 2000s,</p> <p>11 agencies that were advocating policy and training on</p> <p>12 passive, thankfully began to transition away from</p> <p>13 that.</p> <p>14 Q After the first use of the TASER by Officer</p> <p>15 Kaminski, is it your opinion that Mr. Moore was</p> <p>16 actively or verbally assaulting Officer Kaminski</p> <p>17 from his hands and knees?</p> <p>18 A He was not assaulting him in my opinion in</p> <p>19 the same context as when he was advancing, but a</p> <p>20 reasonable officer in that circumstance as a person</p> <p>21 is believed to be trying to regain their feet would</p> <p>22 be perceiving that to be an immediate threat in that</p> <p>23 you are preventing the continuation of the assault</p> <p>24 that got him to the ground in the first place.</p> <p>25 Q What commands was Officer Kaminski</p>	<p style="text-align: right;">84</p> <p>1 Q When Officer White said he observed Mr.</p> <p>2 Moore on his back 5 feet away from Officer Kaminski,</p> <p>3 at that point with that observation, was Mr. Moore</p> <p>4 actively and overtly assaulting Officer Kaminski?</p> <p>5 A He would not be.</p> <p>6 Q You agree that the Ferguson use of force</p> <p>7 policy, Deposition Exhibit 8, in existence as of</p> <p>8 September of 2011 does not permit a TASER to be used</p> <p>9 against an individual who may engage in an overt act</p> <p>10 of assault?</p> <p>11 A I'm not following your question, sir.</p> <p>12 Q Let me rephrase it. You agree that the</p> <p>13 level of resistance required to use an advanced</p> <p>14 TASER ECW by a Ferguson Police Department officer in</p> <p>15 September of 2011 needed an overt action of assault?</p> <p>16 A Yes, sir, I do.</p> <p>17 Q Is there anything in the documents you</p> <p>18 reviewed, sir, that indicates Mr. Moore overtly</p> <p>19 attacked Officer Kaminski after the first TASER</p> <p>20 deployment?</p> <p>21 A My answer would be, sir, that attempts to</p> <p>22 get backup in the face of commands to do otherwise</p> <p>23 following the initial assault would cause a</p> <p>24 reasonable officer to perceive that, under the</p> <p>25 language of assault, that that activity is in</p>

21 (Pages 81 to 84)

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Tina Moore v. Brian Kaminski, et al.

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March 8, 2016

<p style="text-align: right;">85</p> <p>1 furtherance of regaining speed to assault him. 2 So my answer would be he's not 3 directly punching, kicking, et cetera when he's in 4 that position, but immediately trying to get backup 5 when you are told to stay down would cause a 6 reasonable officer to believe that the TASER use 7 would be preventing further assaultive behavior. 8 Q Mr. Moore is engaging in non-assaultive 9 behavior when he's on his hands and knees, true? 10 MR. DOWD: I also move that that prior 11 answer be stricken as non-responsive. Go ahead, I'm 12 sorry. 13 A I don't want to just split hairs on the 14 definition of assault. At what point does your 15 attempt to get back up become a physical assault. I 16 would simply say that his attempts to regain his 17 feet is a part of an officer would perceive that 18 reasonably as a part of an ongoing and continuous 19 process of assaultive behavior, but to be 20 responsive, he's not punching at that moment, but 21 we're talking about a second in time when, as they 22 regain their feet, a reasonable officer would 23 believe that that behavior would continue. 24 Q (By Mr. Johnson) You raise an interesting 25 point.</p>	<p style="text-align: right;">87</p> <p>1 Q And give him specific directions for what 2 they're supposed to do? 3 A If it's practical to do that, yes, sir. 4 Q Applying that to the facts at hand, that 5 would be to get on your stomach, put your hands 6 behind your back and then ideally Officer Kaminski 7 could safely move forward to cuff the suspect? 8 A In a perfect world, yes, sir. 9 Q When a TASER is deployed, does it always -- 10 almost always lock a person up to a varying agreeing 11 of NMI, neuromuscular incapacitation? 12 A It depends on probe spread, but my response 13 would be generally it's one of the most reliable 14 tools we have, so most always it does that if you 15 have adequate probe spread and it is functioning 16 properly. 17 Q Are you familiar with the concept or phrase 18 of cuffing under power? 19 A Very familiar. 20 Q What does what mean in your field, sir? 21 A It means when two officers are present, that 22 when possible, the second officer, the contact 23 officer would move during the cycle to secure the 24 person because they will have the least opportunity 25 to physically resist the handcuffing during that</p>
<p style="text-align: right;">86</p> <p>1 How much time elapsed between the 2 various uses of the TASER ECW by Officer Kaminski? 3 A A second on the final three. The first one, 4 the TASER computer actually rounds depending on 5 where in the cycle, so it could be up or down, but 6 I'll say the first one was a second or less. 7 Basically, a release and a re-application almost 8 instantly. 9 Q And the evidence provided through the 10 testimony of Officer Kaminski is that in between the 11 applications or deployments of the TASER ECW in this 12 case, what conduct was Officer Kaminski engaging in 13 between the uses or the cycles of the TASER ECW? 14 A He testified that he was giving commands to 15 stay down during the cycles and continuing between 16 the cycles. 17 Q Each use of force exercised by Officer 18 Kaminski required a separate threat assessment, 19 true? 20 A I believe so. 21 Q The proper procedure is to give time for the 22 person to hear the commands, correct? 23 A That's the preferred procedure, yes, sir. 24 Q Give him specific directions for submission? 25 A Correct.</p>	<p style="text-align: right;">88</p> <p>1 cycle. 2 Q At any point following the first TASER 3 deployment, did Officer Kaminski attempt to close 4 the gap between himself and Mr. Moore? 5 A He didn't, no, sir. 6 Q At any point after the first TASER 7 deployment, did Officer Kaminski attempt to 8 handcuff, Mr. Moore? 9 A No, sir. 10 Q Did Officer Kaminski even attempt to cuff 11 Mr. Moore while he was under the power of the TASER 12 ECW? 13 A He did not, no, sir. 14 Q If you believe that Officer White was not on 15 the scene when Officer Kaminski first entered Mr. 16 Moore, which you believe, correct? 17 A That's right. 18 Q Would that mean that Officer Kaminski never 19 waited for backup to arrive before he interacted 20 with Mr. Moore? 21 A That would be accurate. 22 Q Can other officers arrive to the scene such 23 as Officers White or Bebe under these facts, could 24 have assisted in dealing with Mr. Moore? 25 A If they were there?</p>

22 (Pages 85 to 88)

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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">89</p> <p>1 Q Sure.</p> <p>2 A Sure.</p> <p>3 Q Before the first application of the TASER.</p> <p>4 I mean, you certainly agree extra officers could</p> <p>5 have been helpful?</p> <p>6 A If they had been there like physically with</p> <p>7 Officer Kaminski, sure. That would have been better</p> <p>8 in my opinion.</p> <p>9 Q And in what way would that have been better?</p> <p>10 A Just two officers versus one reduces the</p> <p>11 potential or inherent risk and increases the</p> <p>12 officers opportunity to consider other options.</p> <p>13 Q Do you agree that one reading of the police</p> <p>14 report and dispatch logs leads to the inference that</p> <p>15 Officer White was on the scene with Officer</p> <p>16 Kaminski and Mr. Moore before the very first</p> <p>17 deployment of the TASER?</p> <p>18 A I don't.</p> <p>19 Q After the first TASER application, is there</p> <p>20 a window of opportunity that exists if it's safe and</p> <p>21 practical and have adequate resources for an officer</p> <p>22 to take the individual into custody?</p> <p>23 A Is that a hypothetical or is that about the</p> <p>24 facts of this case?</p> <p>25 Q Well, I'm asking you a hypothetical first.</p>	<p style="text-align: right;">91</p> <p>1 supervisor level immediately following every</p> <p>2 deployment and at random intervals of no longer than</p> <p>3 90 days?</p> <p>4 A That's my opinion, yes, sir.</p> <p>5 Q You believe that all applications, other</p> <p>6 than the spark test, need to be accounted for?</p> <p>7 A Every application, yes, sir.</p> <p>8 Q In this case what evidence did you see that</p> <p>9 at any point the Ferguson Police Department did or</p> <p>10 attempted to download the data off of the X26 used</p> <p>11 by Officer Kaminski in September 2011?</p> <p>12 A You're asking were they doing something</p> <p>13 independent of the download after this case?</p> <p>14 Q Yes. What I'm trying to figure out is, and</p> <p>15 I haven't seen it yet. That's why I'm asking you.</p> <p>16 If at any point following the four</p> <p>17 uses of this device by Officer Kaminski on Mr. Moore</p> <p>18 that anybody within the Ferguson Police Department</p> <p>19 attempted to contemporaneously identify and download</p> <p>20 the use data?</p> <p>21 MS. SHAFIAIE: Form. You can answer.</p> <p>22 A I know that it was downloaded. As far as</p> <p>23 exactly when, sir, I don't know. I have the -- I</p> <p>24 have the record, but I don't know exactly when.</p> <p>25 Q (By Mr. Johnson) Sure. You've been</p>
<p style="text-align: right;">90</p> <p>1 A Okay. Could you ask me that again?</p> <p>2 Q Sure. It was a convoluted question.</p> <p>3 After an application of a TASER,</p> <p>4 whether it's the first or the second, third, fourth,</p> <p>5 doesn't matter.</p> <p>6 Is there a window of opportunity</p> <p>7 after the use of the TASER that exists when, if it's</p> <p>8 safe and practical and you have adequate resources,</p> <p>9 that an officer can then take the individual into</p> <p>10 custody?</p> <p>11 A That's the preferred process, yes, sir.</p> <p>12 Q Officer Kaminski -- strike that.</p> <p>13 You instruct that the TASER X26's</p> <p>14 internal computer offers a wealth of information for</p> <p>15 those who care about in-house force accountability?</p> <p>16 A Yes, sir.</p> <p>17 Q You wrote that?</p> <p>18 A I did.</p> <p>19 Q The TASER X26 which modified the M26, did</p> <p>20 that increase the ability to capture data on use of</p> <p>21 the device?</p> <p>22 A Yes, sir. It gave duration which was the</p> <p>23 critical issue that we didn't have with the M.</p> <p>24 Q You also instruct that the TASER should be</p> <p>25 downloaded at the very first -- at the first line of</p>	<p style="text-align: right;">92</p> <p>1 provided the record of download data, you just don't</p> <p>2 know when that was done?</p> <p>3 A I don't.</p> <p>4 Q Your preference would be that it would be</p> <p>5 downloaded following every use?</p> <p>6 A Yes, sir, that's what I recommend.</p> <p>7 Q And the reason you want that downloaded</p> <p>8 after every use is for in-house force</p> <p>9 accountability?</p> <p>10 A Yes, sir.</p> <p>11 Q Policing the police?</p> <p>12 A Correct.</p> <p>13 Q And who is the first line supervisor level?</p> <p>14 I don't know that term in police jargon.</p> <p>15 A That would be a sergeant for most agencies.</p> <p>16 Q In this case is that Lieutenant Ballard or</p> <p>17 is that somebody else?</p> <p>18 A In this particular case, Lieutenant Ballard,</p> <p>19 as I recall, was the first ranking person to get</p> <p>20 there. So even though he may not have been</p> <p>21 Kaminski's sergeant, he would have certainly been</p> <p>22 the supervisor on the scene.</p> <p>23 Q Did your review of records in this case</p> <p>24 indicate that the Ferguson Police Department</p> <p>25 downloaded TASER use data at random and within 90</p>

23 (Pages 89 to 92)

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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">93</p> <p>1 days?</p> <p>2 A I'm not aware of them doing that, no, sir.</p> <p>3 Q Officer Kaminski wrote in his use of force</p> <p>4 report that he used this device on Mr. Moore three</p> <p>5 times?</p> <p>6 A That was his understanding, yes, sir.</p> <p>7 Q After having the benefit of the download</p> <p>8 data, we know that that's not accurate, correct?</p> <p>9 A Yes, sir. I believe the download data is</p> <p>10 the most accurate record of what occurred.</p> <p>11 Q And the download data indicates that there</p> <p>12 were four cycles used on Mr. Moore, correct?</p> <p>13 A Correct.</p> <p>14 Q The preference by the manufacturer is that</p> <p>15 an individual be subject to no more than three</p> <p>16 cycles, correct?</p> <p>17 A I don't know that the manufacturer makes any</p> <p>18 reference to that. There are a number of</p> <p>19 professional organizations that recommend that</p> <p>20 certain steps be taken after three or for longer</p> <p>21 than 15 seconds.</p> <p>22 PERF, for example, in their most</p> <p>23 recent guideline basically says three cycles and</p> <p>24 there's no more. They're the only ones I think that</p> <p>25 do that. I don't recall if the manufacturer says</p>	<p style="text-align: right;">95</p> <p>1 example of what you would want an officer to do in</p> <p>2 that case. The medical assessment is not done by</p> <p>3 the officer. I should clarify. A medical expert is</p> <p>4 supposed to come assess them and not the Officer.</p> <p>5 Q Downloading the data. We see the printout</p> <p>6 and you've seen that in this case true, sir?</p> <p>7 A Yes, sir, I have.</p> <p>8 Q Walk me through how a department downloads</p> <p>9 the data?</p> <p>10 A It's a relatively simple process where the</p> <p>11 battery is removed on the X and a battery with a</p> <p>12 wire attachment is stuck in it, and there is a</p> <p>13 software program that is set up on usually a single</p> <p>14 computer to get consistency of the date time</p> <p>15 stamping and you just plug it in and the device</p> <p>16 basically does all the work for you and you get the</p> <p>17 printout or the document that you have there and you</p> <p>18 can realign the clock which is one of the reasons I</p> <p>19 recommend the 90-day problem resolution of the clock</p> <p>20 drift.</p> <p>21 If you don't do that every 90 days,</p> <p>22 you can have a little bit of what you've got there</p> <p>23 with some minutes of deviation between a dispatch</p> <p>24 time stamp, but it's a relatively simple process of</p> <p>25 just plugging and then following the instructions.</p>
<p style="text-align: right;">94</p> <p>1 three and no more.</p> <p>2 Q As of September of 2011, what organizations</p> <p>3 do you consider to be authoritative in your field</p> <p>4 recommended no more than three cycles of a use of a</p> <p>5 TASER X26 on an individual?</p> <p>6 A I don't know for certain when PERF came up</p> <p>7 with that recommendation. As I said, after 2007 to</p> <p>8 be candid, because of disagreements on the direction</p> <p>9 they were going, I didn't have as much involvement,</p> <p>10 so I can't tell you whether at that time PERF had</p> <p>11 said three and no more. I do believe that's their</p> <p>12 position today.</p> <p>13 Q What about IACP? What was their guideline</p> <p>14 that they promulgated as of September 2011 on the</p> <p>15 number of cycles that is recommended?</p> <p>16 A The model policy and White paper both say</p> <p>17 the least number of cycles reasonable to get the job</p> <p>18 done and cycles more than three or for a total</p> <p>19 duration of longer than 15 should result in a</p> <p>20 medical assessment.</p> <p>21 Q What medical assessment was performed on Mr.</p> <p>22 Moore by Officer Kaminski?</p> <p>23 A A medical assessment that directly with the</p> <p>24 outcome didn't have any impact, but by having an</p> <p>25 ambulance come to the scene, that would be the best</p>	<p style="text-align: right;">96</p> <p>1 Q What capabilities did the Ferguson Police</p> <p>2 Department have to download the data off the device</p> <p>3 utilized by Officer Kaminski in September 2011?</p> <p>4 MS. SHAFAT: Object to foundation. You can</p> <p>5 answer.</p> <p>6 A They would have had the same capabilities I</p> <p>7 just described. Whether they exercised it or not, I</p> <p>8 didn't see any evidence of a regular process to do</p> <p>9 that, but I'm confident they would have had the same</p> <p>10 capability I just described.</p> <p>11 Q (By Mr. Johnson) Do you know if they had</p> <p>12 the capability prior to September 17, 2011?</p> <p>13 A Let me just clarify my answer. I guess</p> <p>14 that's assuming an agency has the plug in. It is</p> <p>15 something you have to get from TASER. I have seen</p> <p>16 some agencies that don't, but so my assumption is</p> <p>17 that the process would be relatively simple if they</p> <p>18 had the physical capability to do so.</p> <p>19 Q Does the plug and the software program in</p> <p>20 your background, training and experience, sir, does</p> <p>21 that come with the purchase of the device itself?</p> <p>22 A It doesn't. I'm not suggesting some</p> <p>23 manufacturer or vendor wouldn't throw it in, but</p> <p>24 it's not standard with the device.</p> <p>25 Q Is that something that has to be ordered</p>

24 (Pages 93 to 96)

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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">97</p> <p>1 separately?</p> <p>2 A It is.</p> <p>3 Q I want to refer to page 11 of your report,</p> <p>4 sir.</p> <p>5 A Do you want me to use this one here, sir, or</p> <p>6 does it matter?</p> <p>7 Q It doesn't matter. Whatever's most</p> <p>8 convenient for you, sir. I have a couple of just</p> <p>9 questions where I'm bouncing around here.</p> <p>10 A Okay.</p> <p>11 Q It's at the lower portion of page 11, sir,</p> <p>12 and the paragraph starts in summary. Do you see</p> <p>13 that, sir?</p> <p>14 A Yes, sir.</p> <p>15 Q "In summary, the four cycles were initiated</p> <p>16 in response to Mr. Moore advancing naked toward</p> <p>17 Officer Kaminski refusing orders to stop and</p> <p>18 swinging his fist in an aggressive and assaultive</p> <p>19 manner."</p> <p>20 Did I read that correctly, sir?</p> <p>21 A Yes, sir.</p> <p>22 Q I want to break that down between the four</p> <p>23 cycles that were actually utilized by Officer</p> <p>24 Kaminski September 17, 2011.</p> <p>25 A Okay.</p>	<p style="text-align: right;">99</p> <p>1 differently. We see on page 11 of Exhibit 4, we see</p> <p>2 that you have written three justifications for the</p> <p>3 use of the four cycles, correct?</p> <p>4 One, advancing naked. Two, refusing</p> <p>5 orders to stop, and three, swinging fists in</p> <p>6 aggressive and assaultive manner?</p> <p>7 A Yes, sir.</p> <p>8 Q So of those three justifications for the use</p> <p>9 of force in this case, which of those three</p> <p>10 justifications caused Officer Kaminski to use the</p> <p>11 TASER the first time?</p> <p>12 A I think all three of them the first time.</p> <p>13 Q Okay. What about the second time?</p> <p>14 A I think to accurately characterize that</p> <p>15 response, it would be refusing orders to stop</p> <p>16 getting back up.</p> <p>17 Q And the third time?</p> <p>18 A The same.</p> <p>19 Q Fourth time?</p> <p>20 A It would be the same on each of them after</p> <p>21 the initial one.</p> <p>22 Q I want to go back to the material you</p> <p>23 reviewed which is at the rear of Exhibit 4, it's the</p> <p>24 last three pages, sir, starting at page 14.</p> <p>25 There are a number of bullet points</p>
<p style="text-align: right;">98</p> <p>1 Q Can you break up that sentence to have each</p> <p>2 of the justifications or rationales that you believe</p> <p>3 the TASER was used on Mr. Moore? Can you allocate</p> <p>4 those to each of the four cycles for me?</p> <p>5 A Certainly.</p> <p>6 Q Go ahead.</p> <p>7 A The initial one was when he was advancing</p> <p>8 and what he described as an aggressive manner with</p> <p>9 his swinging fists. That did result in what appears</p> <p>10 to be immediate incapacitation.</p> <p>11 About a second between the first</p> <p>12 release and the second release Kaminski describes</p> <p>13 him as attempting to get back up and a reasonable</p> <p>14 officer would perceive an assaultive suspect who had</p> <p>15 done what he just did who then does not remain down</p> <p>16 as ordered and begins to get back up on his feet as</p> <p>17 a continuation of that assault and that is exactly</p> <p>18 what happened in the following two documents, about</p> <p>19 a second of release and the attempt to get back up</p> <p>20 and not comply with the order would cause a</p> <p>21 reasonable officer to believe the assaulting process</p> <p>22 is ongoing and continuous and that's why it would</p> <p>23 have been justified to continue to use the TASER to</p> <p>24 terminate that apparent assaultive effort.</p> <p>25 Q I want to ask the question a little</p>	<p style="text-align: right;">100</p> <p>1 that you have set forth over three pages of material</p> <p>2 you reviewed as part of your work in this case.</p> <p>3 Is that correct, sir?</p> <p>4 A Yes, sir.</p> <p>5 Q Do you know which of the material came on</p> <p>6 the disc versus which of the material you were</p> <p>7 emailed?</p> <p>8 A I do not, sir.</p> <p>9 Q No problem. It's a lot.</p> <p>10 A I can provide it to you. I just --</p> <p>11 Q It would get pretty exhaustive and that's</p> <p>12 not necessary.</p> <p>13 Fair to say that the material you</p> <p>14 reviewed all came from the Pitzer Law Firm?</p> <p>15 A It did, sir, with the exception of the few</p> <p>16 things we talked about, the CIT power point, that</p> <p>17 sort of thing.</p> <p>18 Q Would you agree to furnish to Ms. Shafaie</p> <p>19 the power points to the extent they form the basis</p> <p>20 of your opinion in this case?</p> <p>21 A Certainly. And I think the model policy and</p> <p>22 the IACP.</p> <p>23 Q Sure. So that would be three additional</p> <p>24 items: A general power point, CIT power point and</p> <p>25 IACP policy?</p>

25 (Pages 97 to 100)

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Steven Ijames

March 8, 2016

<p style="text-align: right;">101</p> <p>1 A I'm not sure on the general power point 2 you're talking -- what are we talking about there? 3 Q I think you mentioned earlier, but if I'm 4 incorrect. 5 A Basically I can go through here and whatever 6 is footnoted, it was not in the material provided. 7 I would be happy to get that to her. I have it in 8 my file. 9 Q Thank you, sir. On page 14 of Exhibit 4 10 there is a bullet point referenced about seven or 11 eight down "Video of TASER and envelope from TASER." 12 What is that, sir? 13 A There was apparently in house at the PD I 14 believe a video taken that had the TASER device 15 itself, I think the X in question, and it showed 16 someone taking it out of an envelope. I'm not sure 17 what the context was, but it was there so -- 18 MS. SHAFAT: We can go off the record. 19 Let's go off the record really quickly. 20 VIDEOGRAPHER: Off the record at 10:52. 21 (Recess taken.) 22 VIDEOGRAPHER: Back on the record at 10:53. 23 Q Mr. Ijames, also in the material reviewed 24 starting on page 14 of Exhibit 4 actually moving to 25 page 16 of the last page, sir.</p>	<p style="text-align: right;">103</p> <p>1 A And maybe a third. There was some confusion 2 about a third power point, but yes, sir, true. 3 Q Did you look at the DOJ report against 4 Ferguson? 5 A I have read that, yes, sir. 6 Q Did you read it in terms of your work on 7 this case or did you read it just for wanting to 8 read it? 9 A I read it when it first came out and then I 10 think it was added later on this case and I don't 11 recall that I read it additionally after I did 12 receive it in this case, but I have definitely read 13 it. 14 Q And did it form any basis for any opinion 15 you are offering in this case? 16 A It did not, sir. 17 Q Are you offering any Monell opinions in this 18 case? 19 A The only opinions I'm offering, sir, is 20 what's listed there. 21 Q So the answer is no? 22 A I don't think I gave a Monell opinion. I 23 don't recall that I did. 24 Q Are you offering any opinions about any type 25 of claimed deficiencies in Ferguson's training of</p>
<p style="text-align: right;">102</p> <p>1 Are the last half dozen or so calls, 2 is that all of the audio calls made by the citizens 3 to the Ferguson Police Department? 4 A Yes, sir. 5 Q Fair to say that some of the material you 6 reviewed in this case did not form the basis of your 7 opinions in this case? 8 A That's true, sir. 9 Q You just want to be thorough in terms of 10 what you received to make sure it was listed, 11 correct? 12 A That's correct, sir. 13 Q Is there any material that is listed on 14 these three pages of Exhibit 4 that were not 15 furnished to you by the Pitzer Law Firm? 16 A I think the way I normally do this, sir, and 17 I did it the same in this case, I think everything 18 that's here is what I received from the firm and 19 then anything else would be just footnoted and 20 referenced, so my answer would be this all came from 21 the firm. 22 Q The only things from your own personal 23 library would be the two items you mentioned before 24 meaning the power point presentation and the IACP 25 policy?</p>	<p style="text-align: right;">104</p> <p>1 its police officer including Officer Kaminski? 2 A No, sir. 3 Q Are you offering any opinions as they may 4 relate to any allegation of pattern and practice 5 violations committed by the City of Ferguson? 6 A No, sir. 7 Q Are you rendering any opinions about the 8 adequacy of the Ferguson Police Department's 9 investigative process in investigating their own 10 officers' use of force? 11 A No, sir. 12 Q Did you review citizen complaints made 13 against Ferguson Police Department personnel as part 14 of your work in this case? 15 A I did, sir. 16 Q Did you review any of the underlying 17 documents of the DOJ Report as they relate to 18 different police encounters between Ferguson Police 19 Department officers and the public where force was 20 used? 21 A I did review a voluminous file of many other 22 uses of force, but I don't recall if that was an 23 addendum to the DOJ Report. 24 Q A fair way to characterize it would be you 25 reviewed the documents produced in the litigation?</p>

26 (Pages 101 to 104)

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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">105</p> <p>1 A That's correct.</p> <p>2 Q And if they ultimately were part of a DOJ</p> <p>3 report or not, you just don't know?</p> <p>4 A That's true, sir.</p> <p>5 Q Do you agree citizens complaints should be</p> <p>6 investigated thoroughly?</p> <p>7 A I do, sir.</p> <p>8 Q Do you agree that thoroughly investigating</p> <p>9 citizen complaints would perpetuate the officers</p> <p>10 being held accountable for their actions?</p> <p>11 A Yes, sir, I do.</p> <p>12 Q Do you agree that thoroughly investigating</p> <p>13 citizen complaints helps improve the level of</p> <p>14 misconduct within the police department?</p> <p>15 A You said improved, you mean reduce the level</p> <p>16 of misconduct?</p> <p>17 Q Sure.</p> <p>18 A Yes, sir, I do.</p> <p>19 Q You want to have policies and procedures in</p> <p>20 place that minimize the incidents of an officer</p> <p>21 misconduct for any reason, correct?</p> <p>22 A I do, sir.</p> <p>23 Q Did you review any standing order or any</p> <p>24 other document in this case that citizen complaints,</p> <p>25 if they were made against Ferguson Police Department</p>	<p style="text-align: right;">107</p> <p>1 can't tell you from memory that I did, but I did</p> <p>2 look at in its entirety. So if that was contained</p> <p>3 in there, I would have. I'm certain I didn't see</p> <p>4 anything that caused me concern or I would have</p> <p>5 remembered that.</p> <p>6 Q Sure. Let's take a short break.</p> <p>7 VIDEOGRAPHER: Off the record at 11:01.</p> <p>8 (Recess taken.)</p> <p>9 VIDEOGRAPHER: Back on the record at 11:14.</p> <p>10 Q (By Mr. Johnson) I have no further</p> <p>11 questions at this time. Thank you for your time,</p> <p>12 Mr. Ijames.</p> <p>13 A Thank you, sir.</p> <p>14 [EXAMINATION]</p> <p>15 BY MR. DOWD:</p> <p>16 Q Good afternoon, Mr. Ijames. My name is Bill</p> <p>17 Dowd and we met at the beginning of the deposition.</p> <p>18 Just a few follow-up questions, if I may. I</p> <p>19 represent Tina Moore, the surviving widow of Mr.</p> <p>20 Moore.</p> <p>21 A Yes, sir.</p> <p>22 Q Have you done any research or other</p> <p>23 investigation other than what you've previously</p> <p>24 described in your testimony today?</p> <p>25 A In reference to forming my opinions?</p>
<p style="text-align: right;">106</p> <p>1 officers, were that the officer was notified of that</p> <p>2 complaint?</p> <p>3 A I don't recall that, sir. The policy is</p> <p>4 that they are notified.</p> <p>5 Q Are or are not, either way?</p> <p>6 A I don't.</p> <p>7 Q As part of your work in this case, were you</p> <p>8 aware of any collective bargaining or other</p> <p>9 agreements where complaints against officers were</p> <p>10 deleted or eliminated after a certain period of</p> <p>11 time?</p> <p>12 A I'm not aware of that, sir.</p> <p>13 Q Even outside this case, do you know that as</p> <p>14 it relates to the Ferguson Police Department?</p> <p>15 A I don't, sir.</p> <p>16 Q Did the incidents of force that were</p> <p>17 identified in the DOJ Report form any basis for the</p> <p>18 opinions that you're offering in this case?</p> <p>19 MS. SHAFIE: Object to form. You can</p> <p>20 answer.</p> <p>21 A They did not, sir.</p> <p>22 Q (By Mr. Johnson) Did you review any type of</p> <p>23 psychological report on Officer Kaminski for any</p> <p>24 type of pre-random or even post-employment test?</p> <p>25 A I had his entire background file and I just</p>	<p style="text-align: right;">108</p> <p>1 Q Yes, sir.</p> <p>2 A No, sir.</p> <p>3 Q Have you had any contact with TASER</p> <p>4 International related to this case?</p> <p>5 A I have not, sir.</p> <p>6 Q What regular contact do you have with TASER</p> <p>7 International?</p> <p>8 A I have no regular contact with them at all.</p> <p>9 I probably spoke to Rick Smith, the owner, a year</p> <p>10 ago on a personal matter of a friend of a friend</p> <p>11 issue, but I don't even know who their director of</p> <p>12 training is. I don't talk to anyone at TASER.</p> <p>13 Q You testified that this situation was a</p> <p>14 rapidly evolving situation with Mr. Moore and</p> <p>15 Officer Kaminski, is that correct?</p> <p>16 A Yes, sir.</p> <p>17 Q And you agree that an officer of</p> <p>18 Mr. Kaminski's ten-years experience, his training at</p> <p>19 the academy, his training at the prior police</p> <p>20 departments and his training at Ferguson Police</p> <p>21 Department are all designed to train and prepare</p> <p>22 them for rapidly evolving situations, correct?</p> <p>23 A I do, sir.</p> <p>24 Q And this cannot be used by officers as a</p> <p>25 defense to the use of all levels of force.</p>

27 (Pages 105 to 108)

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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">109</p> <p>1 Would you agree with that?</p> <p>2 MS. SHAFIAE: Object to form. You can</p> <p>3 answer.</p> <p>4 Q (By Mr. Dowd) That it was a rapidly</p> <p>5 evolving situation?</p> <p>6 MS. SHAFIAE: Same objection.</p> <p>7 A I would just -- if I'm understanding your</p> <p>8 question, sir, I would say that it's not an excuse</p> <p>9 to use unreasonable force.</p> <p>10 Q (By Mr. Dowd) Okay.</p> <p>11 A I mean, they may have to use all levels of</p> <p>12 force and be justified if that makes sense. It's</p> <p>13 not a justification to do something wrong.</p> <p>14 Q Okay. Fair enough. Let me direct your</p> <p>15 attention to Exhibit 4 which is your report that</p> <p>16 you've issued in this case your opinion three.</p> <p>17 A Yes, sir.</p> <p>18 MS. SHAFIAE: What page are we on?</p> <p>19 MR. DOWD: It looks like it's page eight.</p> <p>20 Q (By Mr. Dowd) The conclusion of your</p> <p>21 opinion that force was not excessive and was quote</p> <p>22 consistent with contemporary police training, policy</p> <p>23 and practice?</p> <p>24 A Yes, sir.</p> <p>25 Q How do you stay current on the laws as it</p>	<p style="text-align: right;">111</p> <p>1 seems to run a circle of people like me so I read</p> <p>2 all of that material that I can.</p> <p>3 Q That's important for police departments to</p> <p>4 keep their officers up to speed on the current state</p> <p>5 of the law so that they're aware of the rights of</p> <p>6 the citizens as declared by these courts?</p> <p>7 A I would agree in the context where it would</p> <p>8 affect policy and practice if that makes sense. The</p> <p>9 answer is yes, but not necessarily like I would do</p> <p>10 it. It's more for the policy makers to make sure</p> <p>11 their current process is consistent with that law</p> <p>12 versus just exposing the officers to the law.</p> <p>13 Q All right. And based on your review of the</p> <p>14 depositions and the standing orders of the Ferguson</p> <p>15 Police Department and their chief, captains,</p> <p>16 lieutenants, police officers, how do they keep their</p> <p>17 officers up to date on the current state of the law?</p> <p>18 A I can't answer that in particular. I know</p> <p>19 they have in-service training, but I don't recall</p> <p>20 any specific blocks that would meet or how you are</p> <p>21 characterizing that.</p> <p>22 Q Is there any testing, to your knowledge, on</p> <p>23 the current state of the law and how the officers</p> <p>24 are made aware of that?</p> <p>25 A The only testing that I saw in their</p>
<p style="text-align: right;">110</p> <p>1 relates to established rights of citizens to be free</p> <p>2 from excessive force?</p> <p>3 A I just do case reviews. I do continuous</p> <p>4 training. I'm still a Class A post-certified peace</p> <p>5 officer, do 80 hours of training a year through my</p> <p>6 original department which has legal updates as a</p> <p>7 part of that and just stay up with contemporary</p> <p>8 police business.</p> <p>9 I think I mentioned earlier that I'm</p> <p>10 on the national policy center board of the IACP. I</p> <p>11 fly tomorrow to San Diego for our quarterly meeting.</p> <p>12 That is an in-depth process every meeting to bring</p> <p>13 us up on current case law, so that's what I do.</p> <p>14 Q And what are the legal updates that you</p> <p>15 referred to, how do you receive those?</p> <p>16 A I'm not like on a mailing list or anything</p> <p>17 like that. I think it would mostly be reading, or</p> <p>18 as with the IACP quarterly meeting, there's normally</p> <p>19 there's two attorneys that are on our board.</p> <p>20 They'll just bring us, the group I'm on, the</p> <p>21 national policy center board, up to date on recent</p> <p>22 Supreme Court relevant circuit case decisions and</p> <p>23 then just reading and trying to stay up on the</p> <p>24 business as most recently a fourth circuit case came</p> <p>25 out that affected on passive resisters and that just</p>	<p style="text-align: right;">112</p> <p>1 training was specifically in this case to TASER, but</p> <p>2 I don't recall reading of any written tests to</p> <p>3 indicate that they were up to date on the state of</p> <p>4 the law.</p> <p>5 Q And you have not received any documents from</p> <p>6 the defense counsel on that subject?</p> <p>7 A I have not, sir.</p> <p>8 Q You did not request any such documents,</p> <p>9 correct?</p> <p>10 A I didn't.</p> <p>11 Q In your factual description and your</p> <p>12 understanding of Mr. -- Officer Kaminski's encounter</p> <p>13 with Mr. Moore that morning, he refers to him as</p> <p>14 being on his knees in a push-up or doggy-style</p> <p>15 position.</p> <p>16 Do you recall that testimony?</p> <p>17 A At one point, yes, sir.</p> <p>18 Q Do you recall any of that description being</p> <p>19 in the original report that he wrote the day of the</p> <p>20 incident?</p> <p>21 A I don't.</p> <p>22 Q It's not in there, is it?</p> <p>23 A I don't think so.</p> <p>24 Q And that contradicts and is in conflict with</p> <p>25 Officer White's observation when he gets to the</p>

28 (Pages 109 to 112)

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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">113</p> <p>1 scene that the citizen is actually in a sit-up 2 position? 3 MS. SHAFIAIE: Object to form. You can 4 answer. 5 Q (By Mr. Dowd) Would you agree with that? 6 A I do. 7 Q Would you also agree that, if Mr. Moore is 8 in a sit-up position as Officer White has observed 9 and testified, that it would have been easier for 10 Mr. -- Officer Kaminski to have observed the X26 11 probe in his chest area? 12 A In that hypothetical certainly. If you 13 could see the chest versus a prone position, it 14 would potentially be easier, yes, sir. 15 Q Right. And if Mr. Moore has the X26 XP, the 16 extra penetrating dart in his chest and Officer 17 Kaminski is aware of that and he -- it would be a 18 different scenario on your use of force analysis. 19 Would you agree with that? 20 MS. SHAFIAIE: Object to form. 21 A I think the best one to answer that, sir, is 22 that the use in that case would not be prohibited. 23 It is a non-preferred aiming area. It's not a 24 prohibited area. Whether the officer would have 25 re-assessed the next step, I simply can't speak for</p>	<p style="text-align: right;">115</p> <p>1 greater risk to Mr. Moore's health as opposed to if 2 he had tased him on some other body part? 3 A My response, sir, to accurately characterize 4 my understanding of the research is that there's a 5 potential for increased risk. It's not -- that's my 6 answer, that that area the body based on training 7 suggests an enhanced risk, not a guaranteed risk, 8 but the answer would be yes. 9 Q You testified previously that you basically 10 have seen everything that you wanted to see as part 11 of your analysis and the basis of your opinions in 12 this case, is that correct? 13 A Yes, sir. 14 Q A couple of things you have not seen are the 15 dispatch recording, the conversations between the 16 Ferguson dispatcher and the Ferguson police 17 officers. 18 You have not seen that, correct, or 19 heard that I should say, the audio recordings? 20 MS. SHAFIAIE: Object to foundation. You can 21 answer. 22 A I just don't remember. I'm certain of 23 listening to each of the 911 calls. I just don't 24 recall if I had the dispatch log itself. 25 Q (By Mr. Dowd) Right. And the 911 calls are</p>
<p style="text-align: right;">114</p> <p>1 him. That is something an officer could have 2 considered, but it would not have been prohibited to 3 do an additional cycle if he knew that. 4 Q (By Mr. Dowd) You would agree that he would 5 have been aware of a greater risk to the citizen if 6 he was aware that the probe was in his chest when he 7 was pulling the trigger and delivering the 8 electricity the second, third and forth time. Do 9 you agree with that? 10 A I do agree that the training would suggest 11 that that is an enhanced or increased risk, yes, 12 sir. 13 Q And you would agree that Officer Kaminski 14 was intentionally pulling the trigger each time he 15 pulled the trigger? 16 A Yes, sir, I do believe he did on purpose. 17 Q And he was conscious of pulling the trigger 18 each time he pulled the trigger? 19 A I believe so. 20 Q So if Officer White is correct and the man 21 is sitting up and also assuming for purposes of my 22 question that Officer Kaminski is aware that the XP, 23 extra penetrating dart, is in Mr. Moore's chest area 24 near his heart, that each time he consciously and 25 intentionally pulls that trigger, he is creating a</p>	<p style="text-align: right;">116</p> <p>1 citizens to the dispatcher, correct? 2 A Yes, sir, correct. 3 Q And so the Ferguson Police Department 4 maintained those and those were available for us in 5 the investigation of this case, correct? 6 A I believe that's where they came from, yes, 7 sir. 8 Q To your knowledge, what we don't have and 9 what was not preserved in this case by the Ferguson 10 Police Department are the communications by the 11 officers and the dispatcher which one time were 12 recorded audio recordings, but we do not have them, 13 to your knowledge, correct? 14 MS. SHAFIAIE: Form and foundation. You can 15 answer. 16 A Again, sir, I don't recall listening to 17 those. I'm not aware that they're not available. I 18 just don't recall that I had them. 19 Q (By Mr. Dowd) In your investigation of your 20 prior use of force cases in the defense of multiple 21 police departments, have you ever listened to the 22 dispatched tapes as between the officers and the 23 dispatcher? 24 A I have, many times. 25 Q And you have found those to be helpful in</p>

29 (Pages 113 to 116)

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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">117</p> <p>1 many cases?</p> <p>2 A It just depends on the facts in the case.</p> <p>3 Q Certainly.</p> <p>4 A So in some cases it has been helpful, yes,</p> <p>5 sir.</p> <p>6 Q If they were available, you would like to</p> <p>7 hear them?</p> <p>8 A I would certainly have listened to them if</p> <p>9 they were available, yes, sir.</p> <p>10 Q And as you sit here, you do not recall</p> <p>11 listening to them?</p> <p>12 A I don't believe that I did.</p> <p>13 Q Have you reviewed the CAD transcript in this</p> <p>14 case?</p> <p>15 A You mean the CAD report?</p> <p>16 Q Yes, sir.</p> <p>17 A The typed report?</p> <p>18 Q Yes.</p> <p>19 A Yes, sir, I believe I have.</p> <p>20 Q Okay. Does that form the basis of your</p> <p>21 opinions?</p> <p>22 A No, sir. I didn't see anything that led to</p> <p>23 a concern or conflict in my mind as to the</p> <p>24 chronological order of basically who went when and</p> <p>25 where and that's what the CAD data generally</p>	<p style="text-align: right;">119</p> <p>1 A Very normal in my experience, though not</p> <p>2 factual.</p> <p>3 Q So inaccurate and no help in the analysis of</p> <p>4 what occurred that day?</p> <p>5 A That's true, based upon the sworn deposition</p> <p>6 testimony of when the officers said they arrived</p> <p>7 which I did not think was in dispute. I ran a</p> <p>8 dispatch center and also dispatch to 1983 and I'm</p> <p>9 aware that frequently things like you're describing</p> <p>10 happen and it doesn't make it accurate, it's just</p> <p>11 the way dispatchers lump things together that later</p> <p>12 becomes important, but at the time they're just</p> <p>13 trying to get stuff logged, but it did not impact my</p> <p>14 opinion, no, sir.</p> <p>15 MR. DOWD: I move to strike your testimony</p> <p>16 as non-responsive.</p> <p>17 Q My question was, I believe, that that CAD</p> <p>18 transcript showed that all of the officers arrived</p> <p>19 at the same time, okay?</p> <p>20 A Correct.</p> <p>21 Q That is not helpful in your analysis in</p> <p>22 determining who was on the scene first, when the</p> <p>23 second officer arrived and what he may have</p> <p>24 observed. Would you agree to that?</p> <p>25 MS. SHAFIAE: Object to form. You can</p>
<p style="text-align: right;">118</p> <p>1 supports, so the answer is no.</p> <p>2 Q Did you find that the information in there</p> <p>3 to be reliable or was it somewhat of a scrambled</p> <p>4 record?</p> <p>5 A I just don't recall. I just know from CAD</p> <p>6 systems that quite frequently dispatchers punch in</p> <p>7 things that aren't perfect and they are in my</p> <p>8 opinion actually there is a common sense of</p> <p>9 confusion in some cases on timing, but in this</p> <p>10 particular case I didn't see that as a relevant</p> <p>11 issue for my opinions, and so I just can't recall</p> <p>12 that it had any weight or emphasis on the opinions</p> <p>13 that I've brought.</p> <p>14 Q Did you read the deposition of the lady that</p> <p>15 we took at the Ferguson Police Department who</p> <p>16 produced the CAD transcript?</p> <p>17 A Do you know what her name is? I'm looking.</p> <p>18 MS. SHAFIAE: Shannon Dandridge.</p> <p>19 Q Is that Dandridge, okay.</p> <p>20 A I don't recall reading the deposition of a</p> <p>21 person who was a custodian of records or anything at</p> <p>22 Ferguson. If I did, it would be on this list.</p> <p>23 Q (By Mr. Dowd) I'm going to represent to you</p> <p>24 that transcript indicates that all of the officers</p> <p>25 all arrived at the exact same time.</p>	<p style="text-align: right;">120</p> <p>1 answer.</p> <p>2 A I agree.</p> <p>3 Q (By Mr. Dowd) So far we have the citizen</p> <p>4 calls which show the man running in the street</p> <p>5 pushing off cars, naked, screaming. The police</p> <p>6 department preserved that, correct, and you have</p> <p>7 that?</p> <p>8 A I do.</p> <p>9 Q The police department did not preserve the</p> <p>10 transcript of what the officers were saying to each</p> <p>11 other or to the dispatcher.</p> <p>12 We don't have that, correct?</p> <p>13 MS. SHAFIAE: Form and foundation.</p> <p>14 A I'm not sure. I think we discussed I didn't</p> <p>15 get it.</p> <p>16 Q (By Mr. Dowd) And we have a CAD transcript</p> <p>17 that is of little or no use to determine who arrived</p> <p>18 at the scene in what order and how much time passed</p> <p>19 between arrivals, correct?</p> <p>20 A Correct.</p> <p>21 Q Are you aware of any internal investigation</p> <p>22 that was performed by the Ferguson Police Department</p> <p>23 into Officer Kaminski's use of force that morning?</p> <p>24 A I'm not sure just beyond the normal process</p> <p>25 review and reports.</p>

Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">121</p> <p>1 Q Everything that's in what's been called</p> <p>2 Exhibit 12 basically the police report in this</p> <p>3 matter and the supplemental?</p> <p>4 A Yes, sir, that would be accurate.</p> <p>5 Q That would be the abuse of force report, the</p> <p>6 TASER use of force report, the narratives, all of</p> <p>7 that?</p> <p>8 A Yes, sir.</p> <p>9 Q Witness statements?</p> <p>10 A Yes, sir.</p> <p>11 Q You're not aware of any other documents</p> <p>12 other than that?</p> <p>13 A I'm not, sir.</p> <p>14 Q Okay. So based on your review of the</p> <p>15 documents and the testimony, you agree there's been</p> <p>16 no internal affairs investigation of Officer</p> <p>17 Kaminski's use of force, correct?</p> <p>18 A That's correct.</p> <p>19 Q No other statements other than what are</p> <p>20 contained in the police report were taken, correct?</p> <p>21 MS. SHAFIAE: Object to form.</p> <p>22 A Not that I'm aware of, sir.</p> <p>23 Q (By Mr. Dowd) Ferguson did not run a TASER</p> <p>24 download to compare Officer Kaminski's version of</p> <p>25 events with what the more accurate TASER download</p>	<p style="text-align: right;">123</p> <p>1 A I would just say that my experience is most</p> <p>2 agencies have the capability to do so, so it would</p> <p>3 actually surprise me because most folks do if they</p> <p>4 have it.</p> <p>5 Q To your knowledge, there was never a</p> <p>6 determination made by any command officer whether</p> <p>7 the chief, Captain Henke or Lieutenant Ballard as to</p> <p>8 whether or not Officer Kaminski's use of force that</p> <p>9 morning was consistent with department policy?</p> <p>10 MS. SHAFIAE: Object to foundation.</p> <p>11 A I think their review of the report and use</p> <p>12 of force report would be their approval as</p> <p>13 communicated by Kaminski. As far as any independent</p> <p>14 investigation approval, I'm not aware of that.</p> <p>15 Q (By Mr. Dowd) Right. In fact, Officer</p> <p>16 Ballard in the use of force report left it blank as</p> <p>17 to whether or not, yes or no, Officer Kaminski's</p> <p>18 conduct was consistent with department policies?</p> <p>19 A I just don't recall that.</p> <p>20 Q You can assume that to be true?</p> <p>21 A Okay.</p> <p>22 Q And he was doing that because his testimony</p> <p>23 was because there had been a death I was passing</p> <p>24 that upstairs?</p> <p>25 A Okay.</p>
<p style="text-align: right;">122</p> <p>1 reports shows?</p> <p>2 A I don't believe they did.</p> <p>3 Q They had the capability to do that though,</p> <p>4 correct?</p> <p>5 MS. SHAFIAE: Object to foundation.</p> <p>6 A That, I don't know. It's not a complicated</p> <p>7 process. I just don't know if they actually had it</p> <p>8 in-house.</p> <p>9 Q (By Mr. Dowd) One of the officers who</p> <p>10 formerly with the police department has testified</p> <p>11 that they did have the capability to do that and</p> <p>12 they all were trained, all of the instructors, TASER</p> <p>13 instructors would have been able to do that during</p> <p>14 that time frame.</p> <p>15 Is that your understanding from</p> <p>16 review of the deposition testimony?</p> <p>17 A Yes, and any TASER instructor can do it if</p> <p>18 they have the mechanical implements necessary to do</p> <p>19 it.</p> <p>20 Q So if one of the former officers testified</p> <p>21 that he was the TASER officer at Ferguson and that</p> <p>22 they had the equipment and they had the capability,</p> <p>23 you would have no reason to disagree with that?</p> <p>24 A I would not, sir.</p> <p>25 Q And that would not surprise you either?</p>	<p style="text-align: right;">124</p> <p>1 Q So he did not make a determination?</p> <p>2 A Agreed.</p> <p>3 Q Let's go off the record.</p> <p>4 VIDEOGRAPHER: Off the record at 11:31.</p> <p>5 (Recess taken.)</p> <p>6 VIDEOGRAPHER: Back on the record at 11:32.</p> <p>7 BY MR. DOWD:</p> <p>8 Q Sir, would you agree that investigating the</p> <p>9 facts of a use of force incident which a person dies</p> <p>10 is important from a police department perspective</p> <p>11 including finding out what happened so as to prevent</p> <p>12 future incidents?</p> <p>13 MS. SHAFIAE: Form.</p> <p>14 A I do if the assumption is something</p> <p>15 occurred that was wrong on the police performance</p> <p>16 side.</p> <p>17 Q (By Mr. Dowd) Yes, sir, but that's why it's</p> <p>18 a good practice to get into so you are investigating</p> <p>19 these use of force incidents so that you can prevent</p> <p>20 future harm to other citizens of the community?</p> <p>21 MS. SHAFIAE: Form.</p> <p>22 A Yes, sir.</p> <p>23 Q (By Mr. Dowd) You understand in this case,</p> <p>24 -- strike that question, please.</p> <p>25 TASER dart probes come in different</p>

31 (Pages 121 to 124)

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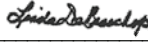
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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">125</p> <p>1 lengths, correct?</p> <p>2 A They do.</p> <p>3 Q And you testified earlier regarding the</p> <p>4 association, your understanding by TASER</p> <p>5 International that dart to heart distance is an</p> <p>6 important factor in determining the relationship</p> <p>7 between some heart malfunction and a cardiac problem</p> <p>8 and the use of the TASER?</p> <p>9 A Or a potential for that. I think the</p> <p>10 scientists still are a little gray, but that's the</p> <p>11 obvious concern.</p> <p>12 Q And in this case you understand that they</p> <p>13 had the longest possible XP dart?</p> <p>14 A XP.</p> <p>15 Q Which is over half an inch long, correct?</p> <p>16 A Correct.</p> <p>17 Q I don't have anything further. Thank you,</p> <p>18 sir.</p> <p>19 MS. SHAFIAE: I don't have any questions.</p> <p>20 VIDEOGRAPHER: This concludes the deposition</p> <p>21 of Steve Ijames. We are off the record at 11:34.</p> <p>22 This ends disc two.</p> <p>23 MS. SHAFIAE: We will waive.</p> <p>24</p> <p>25</p>	<p style="text-align: right;">127</p> <p>1 that signature of the deponent was waived by</p> <p>2 agreement of counsel.</p> <p>3 I further certify that I am not of counsel or</p> <p>4 attorney for either of the parties to said suit, not</p> <p>5 related to nor interested in any of the parties or</p> <p>6 their attorneys.</p> <p>7</p> <p>8 Dated this 13th of March, 2016.</p> <p>9</p> <p>10 </p> <p>11</p> <p>12 Linda DeBisschop, CSR, CCR,</p> <p>13 Illinois CSR No. 084.004741</p> <p>14 Missouri CCR No. 779</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">126</p> <p>1 I, Linda DeBisschop, duly commissioned,</p> <p>2 qualified and authorized to administer oaths and to</p> <p>3 certify to depositions, do hereby certify that</p> <p>4 pursuant to Notice in the civil cause now pending</p> <p>5 and undetermined in the United States District</p> <p>6 Court, State of Missouri, to be used in the trial of</p> <p>7 said cause in said court, I was attended at the</p> <p>8 offices of Pitzer & Snodgrass, 100 South Fourth</p> <p>9 Street, 4th Floor, St. Louis, Missouri, 63102, by</p> <p>10 the aforesaid attorneys; on the 8th day of March,</p> <p>11 2016.</p> <p>12 The said witness, being of sound mind and being</p> <p>13 by me first carefully examined and duly cautioned</p> <p>14 and sworn to testify the truth, the whole truth, and</p> <p>15 nothing but the truth in the case aforesaid,</p> <p>16 thereupon testified as is shown in the foregoing</p> <p>17 transcript, said testimony being by me reported in</p> <p>18 shorthand and caused to be transcribed into</p> <p>19 typewriting, and that the foregoing pages correctly</p> <p>20 set forth the testimony of the aforementioned</p> <p>21 witness, together with the questions propounded by</p> <p>22 counsel and remarks and objections of counsel</p> <p>23 thereto, and is in all respects a full, true,</p> <p>24 correct and complete transcript of the questions</p> <p>25 propounded to and the answers given by said witness;</p>	<p style="text-align: right;">128</p> <p>1 COURT MEMO</p> <p>2</p> <p>3</p> <p>4</p> <p>5 Tina Moore vs. Brian Kaminski, et al.</p> <p>6</p> <p>7</p> <p>8 CERTIFICATE OF OFFICER AND</p> <p>9 STATEMENT OF DEPOSITION CHARGES</p> <p>10</p> <p>11 DEPOSITION OF Steven Ijames</p> <p>12</p> <p>13 3/8/2016</p> <p>14 Name and address of person or firm having custody of</p> <p>15 the original transcript:</p> <p>16</p> <p>17 Baty, Holm & Numrich, PC.</p> <p>18 4600 Madison Avenue, Suite 210</p> <p>19 Kansas City , MO 64112</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

32 (Pages 125 to 128)

Gore Perry Reporting and Video

FAX 314-241-6750

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Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

<p style="text-align: right;">129</p> <p>1 ORIGINAL TRANSCRIPT TAXED IN FAVOR OF:</p> <p>2</p> <p>3 Baty, Holm & Numrich, PC.</p> <p>4 4600 Madison Avenue, Suite 210</p> <p>5 Kansas City , MO 64112</p> <p>6 Total:</p> <p>7 1 ONE COPY - TAXED IN FAVOR OF:</p> <p>8</p> <p>9 Pitzer Snodgrass</p> <p>10 100 South Fourth Street, Suite 400</p> <p>11 St. Louis, MO 63102</p> <p>12 Total:</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	
<p style="text-align: right;">130</p> <p>1 Upon delivery of transcripts, the above</p> <p>2 charges had not been paid. It is anticipated</p> <p>3 that all charges will be paid in the normal course</p> <p>4 of business.</p> <p>5 GORE PERRY GATEWAY & LIPA REPORTING COMPANY</p> <p>6 515 Olive Street, Suite 700</p> <p>7 St. Louis, Missouri 63101</p> <p>8 IN WITNESS WHEREOF, I have hereunto set</p> <p>9 STATEMENT OF DEPOSITION CHARGES</p> <p>10 my hand and seal on this _____ day of _____</p> <p>11 Commission expires</p> <p>12 _____</p> <p>13 Notary Public</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	

33 (Pages 129 to 130)

A	100:23 114:3	17:8 28:15,23	allocate 98:3	approaching 81:4
ability 90:20	additionally 103:11	65:13,16 96:14	altercation 80:20	approval 28:3
able 45:10 47:23	address 6:3 7:22	agent 8:13	ambulance 94:25	123:12,14
71:20 122:13	8:1,2 128:14	agents 36:11,15	analysis 113:18	approximate 15:19
absent 44:16 70:6	adequacy 104:8	37:20,22	115:11 119:3,21	approximately
absolutely 57:4	adequate 87:15	aggressive 44:17	anchor 70:7	48:24 49:17 50:3
abuse 121:5	89:21 90:8	97:18 98:8 99:6	angle 70:3	63:15 77:19 80:4
academy 108:19	adjacent 64:3	agitated 39:4	answer 8:17 13:24	area 8:23 9:25 28:5
accident 9:13	adjust 19:6	ago 108:10	20:10 26:6 29:19	32:14 38:6 49:1
accidental 24:13	adjustment 23:11	agree 10:10 18:4,6	30:11 32:20 39:20	56:18 57:8 68:2
accomplish 67:9	administer 126:2	42:15,19 54:1	50:22 57:3 58:10	68:13 70:17,21
accomplishing	administered 83:7	60:14 61:1,5,8	59:14 62:5,24	74:22 79:22
41:15	administering 83:1	75:19 76:22 78:10	67:4 73:24 83:17	113:11,23,24
accountability	adopt 67:6,15	78:17 79:3,17,23	84:21 85:2,11	114:23 115:6
90:15 92:9	adopted 28:15,21	80:2 81:14,16,23	91:21 96:5,13	arent 118:7
accountable 105:10	29:6 30:10	81:25 82:3 84:6	102:20 103:21	arises 47:3
accounted 91:6	adopting 30:14	84:12 89:4,13	106:20 109:3	armed 46:3
accurate 14:16	adoption 29:10	100:18 105:5,8,12	111:9,18 113:4,21	arrest 50:15 51:4,9
17:18 72:14 74:1	30:3,6 31:12	108:17 109:1	115:6,8,21 116:15	51:20 80:17
74:3,7 80:6 88:21	adopts 29:13	111:7 113:5,7,19	118:1 120:1	arrested 56:9
93:8,10 119:10	advance 45:12	114:4,9,10,13	answering 72:12,23	arrival 50:6 58:23
121:4,25	advanced 84:13	119:24 120:2	answers 126:25	arrivals 120:19
accurately 99:14	advancing 82:19	121:15 124:8	anticipated 130:2	arrive 49:20 50:1
115:3	97:16 98:7 99:4	agreed 45:2 52:21	anybody 8:16	88:19,22
accused 36:11 53:2	advertise 12:14	52:23 124:2	20:13 25:4 48:8	arrived 56:12,16
acquisition 32:10	advocate 18:4	agreeing 87:10	91:18	57:16 58:4,17
act 84:9	advocated 82:10	agreement 127:2	apologize 13:19	60:3,8,15,24 61:6
acting 43:6	advocating 82:11	agreements 106:9	54:24	61:14,18,22 79:18
action 8:8 36:5,9	affairs 121:16	ahead 51:2 85:11	apparent 98:24	118:25 119:6,18
42:21 44:17 84:15	affect 45:20 111:8	98:6	apparently 101:13	119:23 120:17
actions 17:8,12	affiliated 80:13	aimed 69:21	appear 30:6	arriving 51:8 53:15
43:11 48:11	afforded 18:8	aiming 113:23	appearances 3:1	54:2 56:5 71:16
105:10	affront 52:14 53:23	aims 69:19	21:15	article 20:12 65:3,4
active 11:11 16:2	aforementioned	air 68:2	appearing 26:3	65:5
actively 82:16	126:20	airport 49:1 56:6	appears 98:9	articles 23:20,21
83:14,20 84:4	aforesaid 6:21	56:17 60:10 63:18	application 73:10	35:12 39:21 43:19
activity 84:25	126:10,15	64:3 74:6	74:20 75:14 76:4	44:4
acts 83:6	afternoon 107:16	al 1:12 2:15 6:7	76:7,23 89:3,19	aside 17:11
actual 19:23 27:25	age 6:19	128:5	90:3 91:7	asked 8:20 14:7
33:23	agencies 10:25	alarm 52:14 53:23	applications 86:11	37:6,20,24
added 103:10	11:18 29:10 32:4	alarmed 53:10	91:5	asking 16:11 26:11
addendum 104:23	82:4,11 92:15	alcohol 62:21	apply 78:21	26:17 72:18 89:25
addition 14:17	96:16 123:2	aligned 70:2	applying 87:4	91:12,15
additional 26:23	agency 16:14,23	allegation 104:4	approach 41:8	assault 53:6,11,14

53:22 54:19 55:6 55:9 76:25 77:3 81:3,22 82:23 84:10,15,23,25 85:1,14,15 98:17 assaulting 82:16,18 83:15,21 84:4 98:21 assaultive 83:11 85:7,19 97:18 98:14,24 99:6 assess 14:8 46:14 95:4 assessing 41:5 assessment 8:17 46:6,11 47:23 86:18 94:20,21,23 95:2 assisted 88:24 associate 14:25 associated 7:11 15:1 20:13 23:17 62:2 association 40:8 125:4 associations 40:18 assume 12:21 73:25 123:20 assumed 74:7 assuming 66:21 69:7 96:14 114:21 assumption 96:16 124:14 atf 8:15 attached 5:12 attachment 95:12 attack 48:6 attacked 84:19 attempt 73:15 76:8 77:5 85:15 88:3,7 88:10 98:19 attempted 68:24 91:10,19 attempting 76:10	98:13 attempts 77:2 84:21 85:16 attend 9:6 attended 126:7 attention 109:15 attorney 34:18 127:4 attorneys 37:24 110:19 126:10 127:6 audio 102:2 115:19 116:12 author 37:21 authored 23:22 27:22,23 32:2 38:2 39:21 authoritative 39:8 40:2,4,8,11,16 94:3 authorized 66:18 67:1 126:2 autopsy 70:24 available 116:4,17 117:6,9 avenue 3:7 128:18 129:4 avoid 64:16 70:14 aware 12:3 25:24 61:17 65:22,24 75:18 93:2 106:8 106:12 111:5,24 113:17 114:5,6,22 116:17 119:9 120:21 121:11,22 123:14 <hr/> B <hr/> b 52:20 back 34:2 42:9,24 45:16 46:9 48:10 48:19 77:2,4 79:20 82:7 83:19 84:2 85:15 87:6	98:13,16,19 99:16 99:22 101:22 107:9 124:6 backdrop 49:4 background 23:17 29:25 30:19,19 52:15 55:15 59:20 96:20 106:25 backup 76:10 84:22 85:4 88:19 balances 40:22 ballard 57:9 92:16 92:18 123:7,16 bargaining 106:8 based 19:13 22:10 25:15 29:25 49:15 51:5 52:15 55:2 55:17 56:9 63:4 68:8 71:15 75:22 80:18 83:17 111:13 115:6 119:5 121:14 basic 32:23 basically 18:22 26:13 32:9 37:3 43:8 46:5 66:3 72:22 86:7 93:23 95:16 101:5 115:9 117:24 121:2 basis 100:19 102:6 103:14 106:17 115:11 117:20 bates 54:17 batter 74:9,12,14 battery 64:21 95:11 95:11 baty 3:6 128:17 129:3 batyholm 3:10 bear 47:22 beat 57:25 beating 54:9 61:20 bebe 60:21 88:23 began 82:12	beginning 107:17 begins 48:20 98:16 behalf 2:19 16:13 16:15 17:14 behavior 83:12 85:7,9,19,23 belief 48:1 believe 10:22 13:7 13:23 16:9 17:22 18:1 24:7 27:1,13 28:24 33:6 35:4 36:7 38:12 40:10 41:11,20 44:18 52:4 54:7,23 58:4 58:21 60:12,23 61:25 64:5 66:8 66:14 67:14,23 68:12 69:2,8 70:25 71:5,15 72:19 73:8 76:6 76:12 77:22 79:6 82:4 85:6,23 86:20 88:14,16 91:5 93:9 94:11 98:2,21 101:14 114:16,19 116:6 117:12,19 119:17 122:2 believed 68:14 81:12 82:21 believes 80:19 benefit 40:23 93:7 best 7:21 28:18 39:20 44:14 94:25 113:21 better 47:23 89:7,9 beyond 27:9 120:24 big 82:9 bill 3:17 6:12 20:25 22:7 107:16 billing 8:11 20:22 billings 20:19 bit 72:19 95:22 black 54:3,5	blank 123:16 block 33:14 blocks 111:20 blows 77:12 80:25 81:8 board 29:16 110:10 110:19,21 bodies 40:14 bodily 77:7 body 40:1 115:2,6 border 35:22 36:2 36:5,10 37:20 bottom 69:16,17,25 69:25 70:3 bouncing 97:9 brace 75:16 bradford 7:5 break 44:3 48:15 97:22 98:1 107:6 breathing 19:12 brian 1:12 2:15 6:6 128:5 briefly 7:7 bring 110:12,20 broadway 3:15 brought 24:24 118:13 bullet 99:25 101:10 burden 51:13 business 7:22 8:2,5 8:10 110:8,24 130:4 busy 57:8 <hr/> C <hr/> c 3:6,14,21 cad 117:13,15,25 118:5,16 119:17 120:16 california 38:1 call 46:8 49:25 54:8 58:2 59:9,11,18 59:19 72:8,11,25 73:16
--	---	---	--	--

called 8:12 13:23 37:1 121:1 calls 49:9,13,19 51:5,7 56:10 72:4 72:18,22 102:1,2 115:23,25 120:4 calm 59:18 candid 59:13 94:8 canon 49:5 cant 28:2,23 31:4 33:10 39:17,18 58:6 62:10 76:21 94:10 107:1 111:18 113:25 118:11 canting 70:14 capabilities 96:1,6 capability 64:20 96:10,12,18 122:3 122:11,22 123:2 captain 123:7 captains 111:15 capture 90:20 car 34:22,25 62:15 cardiac 125:7 care 90:15 career 15:22 17:13 34:7 carefully 126:13 carrying 41:9 cars 49:10 54:9 120:5 case 6:6,21 7:9 8:7 8:25 11:14 12:17 15:24 19:20 20:21 20:25 21:10 22:4 22:9,10 24:10,13 24:13 25:4 27:3 27:12,19,24 28:20 30:9 31:14,18,22 34:14,15,21 35:2 35:19,22,25 36:4 36:7,14,16,17,18 36:21 37:4,8,16	37:18 38:7,9 43:3 48:23 49:16 54:12 54:18 55:3,8 59:5 63:5 64:6,8,12 66:9 67:12 70:16 70:23 71:2,7 73:10 75:11,24 77:24 79:10,15 81:3 86:12 89:24 91:8,13 92:16,18 92:23 95:2,6 99:9 100:2,20 102:6,7 102:17 103:7,10 103:12,15,18 104:14 105:24 106:7,13,18 108:4 109:16 110:3,13 110:22,24 112:1 113:22 115:12 116:5,9 117:2,14 118:10 124:23 125:12 126:15 cases 11:8,13 16:1 16:3,5,24 17:5,10 17:20 21:6 36:14 43:15 47:13 50:25 81:3 116:20 117:1 117:4 118:9 cause 8:14 26:5 38:22 43:11 50:24 51:1,4,9,13,20 52:14 53:18 79:6 84:23 85:5 98:20 126:4,7 caused 77:2 99:10 107:4 126:18 causes 48:12 cautioned 126:13 ccr 2:24,25 127:11 127:12 cd 13:6 center 29:16 110:10,21 119:8 certain 11:15 29:8	31:4,6 42:25 43:1 45:19 62:11 93:20 94:6 106:10 107:3 115:22 certainly 9:24 33:12 38:2 41:2 43:16 46:3,24 53:22 62:10 70:12 72:20 80:7 82:9 89:4 92:21 98:5 100:21 113:12 117:3,8 certificate 128:8 certification 16:20 26:19 certified 9:17 certify 126:3,3 127:3 cetera 53:10 72:24 85:3 challenge 26:21 changing 42:8 characteristic 40:25 62:13 characterization 52:17 characterize 14:13 45:6 62:8 99:14 104:24 115:3 characterized 56:20 67:23 characterizing 111:21 charges 128:9 130:2,3,9 chase 34:22 check 21:22,24 chest 68:2,13 70:17 74:22 77:13 79:22 113:11,13,16 114:6,23 chief 10:16,21 32:12 39:11 111:15 123:7	chiefs 12:12 32:18 39:10 40:10 chose 51:10 chris 8:13 chronological 117:24 circle 111:1 circuit 110:22,24 circuitry 64:18 circumstance 59:13 82:20 circumstances 34:20 35:7 40:23 42:3,8 43:5 52:13 80:19 cit 27:7,21 28:1,2 28:13,22 29:2 31:19,23 32:1 100:16,24 cited 54:19 55:17 cites 52:9 citizen 53:3 54:2 57:7 73:4 74:18 104:12 105:9,13 105:24 113:1 114:5 120:3 citizenry 51:6 53:1 55:22 56:2,10 72:4 citizens 48:3,8 53:6 53:12 56:18 58:7 59:17 60:11,12 102:2 105:5 110:1 111:6 116:1 124:20 city 3:8 7:12 12:9 15:1 28:21 29:22 31:11 32:3,7 51:21 60:20 61:12 65:20 104:5 128:19 129:5 civil 8:8,25 37:14 126:4 claim 16:15 17:7,8	17:15 claimed 103:25 claims 64:17 clarification 22:24 29:18 47:18 clarify 29:9 36:13 36:18 51:14 57:2 95:3 96:13 class 32:24 33:6 52:20,22 110:4 clear 17:3 clearly 30:13 44:20 46:25 clenched 78:14 clock 74:1 95:18,19 close 34:5 43:24 44:9 46:8,22 49:18,25 88:3 closed 46:12,18 closely 48:8 closer 46:25 47:7 48:4 80:10 closes 47:4 closing 48:1 clothed 43:5 56:13 coalesce 73:16 code 51:22 53:2 codified 52:5 coerce 67:1 collaborations 23:24 collaboratively 23:22 collective 106:8 com 3:10,25 combative 81:12 combination 46:21 come 68:4 94:25 95:4 96:21 124:25 comes 21:14 26:10 26:18 27:25 coming 72:24 command 123:6 commands 79:11
---	---	--	--	---

82:25 83:6 84:22 86:14,22 commission 10:18 10:20 26:19 130:11 commissioned 126:1 commits 52:11 committed 21:1,18 50:24 52:20 53:14 55:23 56:3 104:5 common 42:11 45:14 62:9 118:8 communicate 43:7 46:8 communicated 36:24 123:13 communications 72:5,9 73:3 116:10 community 124:20 company 4:3 8:11 8:12 130:5 compare 121:24 compared 40:22 45:3,5 competing 42:4 complaint 19:19 106:2 complaints 104:12 105:5,9,13,24 106:9 complete 126:24 completely 77:25 compliance 66:18 67:2 complicated 122:6 comply 98:20 components 24:18 24:21 28:2 comprised 22:12 computer 86:4 90:14 95:14 conceivable 11:15	conceivably 51:19 53:6 concept 46:5 87:17 concern 38:19 59:16 81:6 107:4 117:23 125:11 concerned 77:2 concerning 14:11 36:3 49:9,14 51:23 concludes 125:20 conclusion 109:20 concurrently 10:24 condition 59:1 conduct 14:14,18 52:14 55:20,25 86:12 123:18 conference 12:12 confident 53:7 96:9 conflict 56:25 72:20 112:24 117:23 confrontation 42:17 confused 32:5 37:17 confusion 21:8 103:1 118:9 connected 74:21 conscious 114:17 consciously 114:24 consensual 50:16 consider 9:1,17 11:11 18:1 26:8 39:7 40:1,4,7,15 40:24 89:12 94:3 consideration 41:5 considered 45:15 114:2 consistency 95:14 consistent 7:21 41:19 56:23 66:20 109:22 111:11 123:9,18	consolidated 2:14 consulting 8:6,21 8:21 11:8 12:7,12 30:19 contact 52:25 87:22 108:3,6,8 contacted 38:12 contacting 53:3 contain 78:18,24 contained 25:13 107:2 121:20 contemporaneous 28:4 contemporaneou... 13:12 91:19 contemporary 109:22 110:7 context 44:5 82:19 101:17 111:7 contingencies 47:5 continuation 82:23 98:17 continue 19:1 76:24 77:4 85:23 98:23 continues 66:2 continuing 86:15 continuous 81:2 85:18 98:22 110:3 continuum 67:19 67:22 contradicts 112:24 control 27:15 43:13 43:14 controlled 69:14 convenient 97:8 conversations 115:15 convoluted 90:2 cooperate 81:21 coordinated 65:16 copy 54:25 129:7 correct 9:5 10:15 16:21 17:2,20,24	20:5,20 22:20 25:1,2 29:23 33:16,25 34:2,9 42:18 44:1 46:15 50:13 52:4 54:10 54:15 55:10 57:1 57:15,19 60:2,7 61:11 68:21 69:10 70:24 73:7 76:1,5 77:17,18 78:15,16 80:14 86:22,25 88:16 92:12 93:8 93:12,13,16 99:3 100:3 102:11,12 105:1,21 108:15 108:22 112:9 114:20 115:12,18 116:1,2,5,13 119:20 120:6,12 120:19,20 121:17 121:18,20 122:4 125:1,15,16 126:24 correctly 31:21 54:21 58:20 97:20 126:19 correlate 73:15 correspondence 24:24 couldnt 15:25 counsel 3:1 6:8 24:25 112:6 126:22,22 127:2,3 county 11:23 33:4 couple 23:10 97:8 115:14 course 9:20 22:19 33:9,18 43:15 57:12 130:3 courses 9:22 33:2 court 2:1 6:15 7:9 22:17 23:7,14 24:1 110:22 126:6 126:7 128:1	courts 111:6 cover 54:12 covered 24:20 crash 34:25 create 19:4 30:15 48:11 53:22 created 8:14 20:4,8 32:9,14 43:20,23 44:5,9 48:10 creating 21:2 22:15 114:25 crime 50:24 51:11 51:19 critical 38:20 90:23 criticisms 25:6,12 crux 14:11 24:13 csr 2:24,24 127:11 127:12 cue 62:1,22 cuff 87:7 88:10 cuffing 87:18 culminating 19:15 curb 64:2,3 current 16:1 23:9 23:10 32:18 109:25 110:13 111:4,11,17,23 currently 11:8 12:4 curriculum 9:23 custodian 118:21 custody 89:22 90:10 128:14 cv 23:9 35:13 cycle 26:14 80:8 83:22 86:5 87:23 88:1 114:3 cycles 72:1 86:13 86:15,16 93:12,16 93:23 94:4,15,17 94:18 97:15,23 98:4 99:3 <hr/> D <hr/> d 1:3 2:7
---	--	---	--	--

daily 59:10	41:13 42:9,11	108:20 111:3	detention 50:16,21	directly 85:3 94:23
damages 16:13	defend 36:9,10	116:21	50:22 51:2	director 108:11
dandridge 118:18	defendant 12:16	depending 86:4	determination	disagree 122:23
118:19	defendants 1:15	depends 46:24	123:6 124:1	disagreements
danger 58:19,22	2:17 3:19 6:14	87:12 117:2	determine 50:8	25:16 94:8
59:3	14:1,5,5 54:11	deployed 87:9	60:20 120:17	disc 13:5,11,14
dangerous 45:11	defense 16:4,7 36:7	deployment 36:3	determining	14:18 48:20 100:6
47:21	37:10 108:25	38:20 73:9 75:21	119:22 125:6	125:22
darkness 15:16	112:6 116:20	78:6 84:20 88:3,7	developed 13:8	discharge 34:8
dart 68:16 75:10,10	deficiencies 103:25	89:17 91:2	developing 42:4	discharged 33:19
113:16 114:23	define 40:20,21	deployments 86:11	deviation 21:16	71:9
124:25 125:5,13	69:13	deponent 127:1	95:23	disclose 11:18,21
darts 75:1	definitely 32:21	deposes 6:22	device 27:15 70:4,9	disclosure 23:4
data 64:20 72:2	103:12	deposition 1:17	90:21 91:17 93:4	24:18,21
73:12 90:20 91:10	definition 16:17	2:19 6:5 7:7 11:4	95:15 96:2,21,24	discussed 53:5
91:20 92:1,25	24:19,20 82:1	12:22,25 16:12	101:14	120:14
93:8,9,11 95:5,9	85:14	17:14 18:24 20:11	devices 66:6	dispatch 49:17,21
96:2 117:25	definitional 69:15	21:9,20 24:5,7	diagnoses 62:17	55:23 57:21 60:19
date 6:2 13:21 22:3	degree 31:8 55:8	25:15 26:12 38:7	diagnosis 62:15	72:5,9,11 73:3
31:5 73:13 74:18	75:20 79:8	48:20 79:14 84:7	diagram 69:4	74:1 89:14 95:23
95:14 110:21	deleted 106:10	107:17 118:14,20	didnt 11:19 21:9	115:15,24 119:8,8
111:17 112:3	delirium 38:25 39:4	119:5 122:16	24:8 25:19 29:8	dispatched 48:25
dated 127:8	delivering 114:7	125:20 128:9,11	30:6 44:2 88:5	49:8 51:8 57:18
day 2:22 21:19	delivery 130:1	130:9	90:23 94:9,24	58:2,3,5 61:21
112:19 119:4	delores 1:2 2:6 3:3	depositions 7:13	96:8 107:3 112:10	116:22
126:10 130:10	6:11	13:7,17 18:13	117:22 118:10	dispatcher 73:6
days 91:3 93:1	department 7:10	19:22,23 111:14	120:14	115:16 116:1,11
95:21	7:12 10:14 15:2	126:3	diego 35:23 110:11	116:23 120:11
dealing 44:5 47:16	32:7 36:1 48:25	deputy 32:12	dies 124:9	dispatchers 118:6
88:24	51:6 53:1 54:13	derived 12:5	difference 64:14,16	119:11
death 38:22 48:2	55:22 56:3,4,11	describe 57:24	differences 25:12	displaying 61:1
68:20 123:23	65:13 66:17,25	59:22 69:18	different 11:18	81:15
debisschop 2:24	67:6 68:24 72:5	described 54:5 65:2	17:4 24:17,21	dispute 49:24 52:6
126:1 127:11	73:7,19,21 74:15	77:15 96:7,10	26:5 45:12,13	119:7
deceased 14:10	84:14 91:9,18	98:8 107:24	57:23 58:1 64:20	disrobed 49:11
57:14	92:24 95:8 96:2	describes 98:12	104:18 113:18	distance 45:9,20
decision 45:11	102:3 104:13,19	describing 119:9	124:25	46:4 71:4 75:4,9
46:10	105:14,25 106:14	description 56:25	differential 62:17	79:20 80:12 125:5
decisions 46:7	108:21 110:6	62:12 112:11,18	differently 99:1	distributed 33:5
110:22	111:15 116:3,10	designation 20:9	direct 42:21 109:14	district 2:1,2 37:25
declared 111:6	118:15 120:6,9,22	designed 29:10	directing 57:9	126:5
deescalate 41:18	122:10 123:9,18	108:21	direction 94:8	disturbance 51:18
42:16 44:17,19	124:10	detailed 37:3	directions 86:24	division 2:3
deescalation 41:12	departments 104:8	detain 80:18	87:1	document 19:5,12

23:19 29:16 31:13 32:9 36:20 54:11 95:17 105:24 documents 49:15 57:22 63:4 71:2,6 84:17 98:18 104:17,25 112:5,8 121:11,15 doesn't 72:21 81:8 81:18 90:5 96:22 97:7 119:10 doggy style 112:14 doing 18:24 26:7 83:8 91:12 93:2 123:22 doj 36:5 103:3 104:17,23 105:2 106:17 dont 7:25 8:1 9:3 9:24,24 13:16,21 14:10 17:3 18:10 22:6 27:1,13 29:4 29:14,19 30:15 31:15,24 33:13 35:4,15 38:3,11 38:15 43:13 44:25 47:21 48:8 49:11 49:22 51:24 52:7 53:3,11 54:22,24 56:21 58:3,13 60:23 62:15 63:21 65:16 67:17 69:2 71:25 76:6,10 77:4,22,23 79:24 80:6,25 81:21,21 82:1 85:13 89:18 91:23,24 92:1,3 92:14 93:17,25 94:6 95:21 96:16 103:10,22,23 104:22 105:3 106:3,6,15 108:11 108:12 111:19 112:2,21,23	115:22,23 116:8 116:16,18 117:12 118:5,20 120:12 122:2,6,7 123:19 125:17,19 doubt 47:12,15 dowd 3:13,14,14 5:3 6:12,12 85:10 107:15,17 109:4 109:10,19,20 113:5 114:4 115:25 116:19 118:23 119:15 120:3,16 121:23 122:9 123:15 124:7,17,23 dowd law 3:17 download 64:20 72:2 73:12 91:10 91:13,19 92:1 93:7,9,11 96:2 121:24,25 downloaded 90:25 91:22 92:5,7,25 downloading 95:5 downloads 95:8 dozen 102:1 dramatically 64:18 drift 95:20 drive 15:14 driven 15:6 driver 54:3 drove 58:11 80:10 drug induced 62:10 drugs 47:17 62:21 duly 6:19 126:1,13 duration 90:22 94:19 duties 41:10	early 11:6 82:10 easier 113:9,14 east 8:3 eastern 2:2,3 ecw 28:10 29:7 37:15 65:10,21 67:7 71:9 73:10 84:14 86:2,11,13 88:12 edition 28:1,14 educated 66:10 effect 28:10 29:23 30:4 66:7,14 67:20 68:4 76:16 76:17 effective 28:8 75:22 efficient 64:19 effort 98:24 efforts 81:18 eight 101:11 109:19 either 18:5 21:8 24:4 32:14 106:5 122:25 127:4 elapsed 86:1 electricity 114:8 electronic 27:15 elements 51:19 53:5,8,11,22,25 eliminated 106:10 email 13:9,13,17 14:18 21:23 emailed 100:7 emergency 61:2 62:3,23 emphasis 118:12 employed 35:9 employee 73:7,19 73:21 employment 33:19 encounter 33:24 34:7 39:1 41:6 43:1 50:16 57:14 57:17 58:18,24 59:5 60:9,25 61:6	61:23 63:19 79:19 112:12 encountered 43:4 58:9 60:22 62:19 63:1,12,25 encounters 48:7 50:12 104:18 ends 125:22 enforcement 16:14 30:18 33:19 34:6 39:7 41:5 43:1 49:5 50:12,13 52:16 55:16 57:14 58:24 59:5 60:21 engage 67:8 84:9 engaged 8:18 17:2 17:4,9 55:20,25 engaging 36:11 85:8 86:12 engineer 10:4 enhanced 64:19 114:11 115:7 enter 70:7 entered 88:15 entire 28:23 106:25 entirety 107:2 envelope 101:11,16 environment 42:6 42:6,14 equal 48:4 equipment 122:22 erratic 43:6 escalation 27:8 especially 47:16 essence 30:3 established 110:1 estate 1:2 2:6 estimate 12:6 16:8 22:9,11 et 1:12 2:15 6:6 53:10 72:24 85:3 128:5 event 14:12 events 121:25	everybody 66:4 evidence 18:2 26:8 28:20 29:1,5 59:4 59:7,21 60:4 61:1 62:1 63:5 66:9 68:15 72:20 75:24 77:24 79:3 86:9 91:8 96:8 evolving 41:22 42:1 42:25 43:2,9,12 59:24,25 60:1 108:14,22 109:5 exact 13:21 49:11 49:22 58:6 118:25 exactly 44:18 91:23 91:24 98:17 examination 5:1 7:1 107:14 examined 126:13 examiner 9:18 example 20:11 42:24,25 47:19 93:22 95:1 exception 24:6 100:15 excessive 15:23 16:16 17:9,15,19 24:12 34:14 35:2 36:12,20,23 37:5 109:21 110:2 excited 38:25 exclusively 23:20 excuse 109:8 executive 30:17 exercised 86:17 96:7 exhaustive 13:10 100:11 exhibit 5:6,7,8,9 22:16,19 23:6,9 23:13,16,25 24:3 25:8 41:23 84:7 99:1,23 101:9,24 102:14 109:15
--	--	---	---	--

121:2 exhibits 5:5,12 exist 17:23 existed 32:25 existence 84:7 existing 52:2 exists 47:19 89:20 90:7 exited 80:7 exiting 80:5 expect 21:10 expected 45:10 experience 30:1 45:17 52:16 55:15 59:9,15,21 74:2 82:8 96:20 108:18 119:1 123:1 experienced 75:19 79:7 expert 9:1,4,8,25 10:1 12:2 17:22 18:17 38:14 95:3 expertise 8:24 32:13 experts 8:15 expire 33:15 expires 130:11 exposes 52:12 exposing 111:12 exposure 51:16,23 52:8,11,17 54:20 55:11 56:9 extent 28:15 100:19 extra 89:4 113:16 114:23 eyes 15:12 80:11	45:25 facts 17:23,24 18:23 34:20 53:13 56:24 78:21 87:4 88:23 89:24 117:2 124:9 factual 49:4 72:21 112:11 119:2 factually 26:9,14 50:9 fair 14:13 16:8 52:16 100:13 102:5 104:24 109:14 fall 13:20 67:21 falldown 32:19 familiar 29:17 30:18 40:19 67:25 81:19 87:17,19 family 20:14 36:8 far 8:16 30:14 45:16 46:9 62:14 63:24 91:22 120:3 123:13 fashion 43:6 70:10 favor 129:1,7 fbi 8:13 fear 53:10,23 federal 7:9 36:6 fee 21:17,18,20 feet 45:15,16,17 63:13 70:5 71:4 75:3,12 76:4 79:21 80:5,7 82:21 83:19 84:2 85:17,22 98:16 felt 38:17 female 54:3,5 ferguson 7:10 11:17,21,24 12:1 15:1,2 28:21 29:1 29:5,22 30:9 31:11 48:25 49:2 51:5,21 52:8 53:1	54:13,18 55:17,22 56:2,4 57:25 60:20 61:12 65:6 65:9,13,17,20 66:17,25 67:6,20 68:23 72:5,9 73:2 73:6,19,21 74:14 84:6,14 91:9,18 92:24 96:1 102:3 103:4 104:5,8,13 104:18 105:25 106:14 108:20 111:14 115:16,16 116:3,9 118:15,22 120:22 121:23 122:21 fergusons 103:25 field 9:21 23:17 26:20 39:7 40:2,5 40:16 42:2 68:5,9 87:20 94:3 fields 9:2 fifth 71:24,25 fight 80:23 figure 44:16 91:14 file 101:8 104:21 106:25 filed 19:19 36:9 final 86:3 find 38:2 118:2 finding 124:11 fire 8:15 16:23 80:23 firearm 63:8 fired 24:14 71:3 firing 67:7 firm 11:12,25 20:19 20:23 100:14 102:15,18,21 128:14 first 6:19 8:7 11:1 14:9 19:23 26:14 32:10 33:1,3,14 43:21 54:11 58:9	58:17 60:3,8,15 60:24 61:6,22 62:18 63:1,12,25 67:11 68:4 71:10 73:9,17 74:20 75:14,21,25 76:4 76:7,23 77:8,16 77:20 78:6,12,15 79:18 80:2,10 82:14,24 83:1 84:19 86:3,6 88:2 88:6,15 89:3,16 89:19,25 90:4,25 90:25 92:13,19 98:11 99:11,12 103:9 119:22 126:13 fist 97:18 fists 81:4 98:9 99:5 fit 50:20 five 17:16 fivesecond 26:14 flag 18:18 flat 83:3 flee 76:8 fleeing 76:13 flight 76:13 floor 2:21 126:9 fluctuate 21:14 fly 70:5 110:11 focus 41:2,14 44:4 44:14 focusing 14:14 folks 123:3 follow 19:4 following 84:11,23 88:2 91:1,16 92:5 95:25 98:18 follows 6:23 followup 107:18 foot 56:22 footnoted 27:4,8 101:6 102:19 force 15:23 16:16	17:9,15,20 24:12 34:14 35:2 36:12 36:19 37:4 41:12 41:13 47:14 48:12 64:6,8 65:6,9 67:16,19,21 68:25 78:17,19,24,25 84:6 86:17 90:15 92:8 93:3 99:9 104:10,19,22 106:16 108:25 109:9,12,21 110:2 113:18 116:20 120:23 121:5,6,17 123:8,12,16 124:9 124:19 foregoing 126:16 126:19 forensic 8:19 21:15 forever 82:10 form 17:2 20:22 29:2 31:16 73:23 91:21 100:19 102:6 103:14 106:17,19 109:2 113:3,20 116:14 117:20 119:25 120:13 121:21 124:13,21 format 18:23 19:1 29:11,21 30:13 former 122:20 formerly 122:10 forming 107:25 formulate 19:7 25:17 formulated 19:12 forth 69:8 100:1 114:8 126:20 forum 30:17 forward 87:7 found 19:2 25:7 31:13 56:13 116:25
F face 54:12 84:22 facing 77:17 fact 55:12 69:8 72:17 123:15 factor 46:1 125:6 factors 9:15 45:19				

foundation 62:4,24 73:23 96:4 115:20 116:14 120:13 122:5 123:10 four 17:16 24:4 40:18 58:4 72:1 78:22,23 91:16 93:12 97:15,22 98:4 99:3 fourth 2:21 3:22 6:4 71:18,19 90:4 99:19 110:24 126:8 129:10 frame 122:14 free 110:1 french 34:18,19 frequently 58:4 118:6 119:9 friend 1:3 2:7 108:10,10 frightened 54:6 front 34:23 54:22 58:12 full 10:18 126:23 fully 76:3 function 69:10 functioning 87:15 furnish 100:18 furnished 102:15 further 30:23 85:7 107:10 125:17 127:3 furtherance 85:1 future 38:19 124:12,20	general 45:5 59:21 100:24 101:1 generally 14:6 48:6 50:14 58:10 76:17 87:13 117:25 generic 31:20 64:22 generically 76:17 genitals 52:13 getting 16:18 64:14 72:18 77:9 99:16 girl 24:16 give 10:11 14:11 15:25 22:24 31:4 38:7 42:24 46:7 47:18 58:6 86:21 86:24 87:1 given 7:13 14:17 16:12 17:1 18:13 24:4 32:3 83:7 126:25 giving 79:11 86:14 go 15:5 36:23 42:9 45:16 51:2 69:20 75:13 85:11 98:6 99:22 101:5,18,19 124:3 goal 42:16 goes 47:1,2,10 82:7 going 13:10 42:24 48:10 62:16 94:9 118:23 gold 66:3 good 43:16,17 45:6 107:16 124:18 gore 4:3 130:5 government 36:6 gray 125:10 greater 46:4 47:7 114:5 115:1 groin 70:20 ground 75:13 77:17 78:8 82:24 83:2,3 83:4,14 grounds 80:17	group 110:20 guaranteed 115:7 guess 13:19 52:12 59:14 96:13 guessing 13:14 guideline 76:19 93:23 94:13 guidelines 80:16 gun 46:13	headquarters 28:3 health 115:1 hear 31:21 44:2 86:22 117:7 heard 61:9,13,15 61:17,19 115:19 hearings 16:22 17:1 heart 68:16 74:24 114:24 125:5,7 heavy 56:21 held 10:24 70:4 105:10 help 81:18 119:3 helpful 89:5 116:25 117:4 119:21 helps 105:13 henke 123:7 hereunto 130:8 hernandezrojas 35:19,22 36:8,14 37:16 hes 83:10 85:2,3,9 85:20 highlight 18:19 hip 70:21 hired 13:18,22 20:20,23 35:25 36:9 37:7 78:22 historically 16:6,18 19:2 hit 24:16 hitting 53:20 hold 9:8 10:1 70:13 70:14 holm 3:6 128:17 129:3 home 8:2 hope 81:7 hosted 33:6 hotel 13:2 hour 21:13 hourly 20:24 21:11 hours 2:23 15:16	22:8,11,12 110:5 house 8:12,14 21:24 101:13 human 9:15 hundreds 17:19 hung 36:24 hurt 81:18,22 hypothetical 89:23 89:25 113:12 hypothetically 58:13
H				
hair 85:13 half 12:6,7 102:1 125:15 hammons 7:24 hand 23:4 32:16,22 46:12,12 54:17 87:4 130:10 handcuff 71:21 88:8 handcuffing 80:1 87:25 handful 34:13 handgun 63:6 handheld 65:2 handle 51:2 handout 66:14 hands 77:9,13 78:9 78:14 82:17 83:13 85:9 87:5 handson 32:13 hanging 72:23 happen 13:6,12 62:16 119:10 happened 37:9 98:18 124:11 happens 46:22 happy 101:7 harm 58:14,14 59:3 60:13,16 124:20 harms 58:8 hasnt 38:9 havent 21:4,23 22:7 91:15				
I				
iacp 27:5,10 28:8,9 29:6,9,11 30:1,4 31:18 39:24,25 65:21 67:7 80:13 94:13 100:22,25 102:24 110:10,18 id 13:14 ida 3:20 6:14 idea 22:3 70:14 81:10 ideally 87:6 identification 22:17 23:7,14 24:1 identified 12:1 18:17 38:13 106:17 identify 6:8 69:13 91:19 ijames 1:18 2:19 6:5,18 7:3,5,16,17 7:23 13:1 22:20 23:9 48:20,23 101:23 107:12,16 125:21 128:11 ill 7:21 18:25 19:5 23:3 42:13,22 43:24 44:6,10,13 44:21 52:9 54:25 62:20 64:17 72:25 86:6				
G				
gain 55:6 66:18 gained 68:8 gap 45:8,15,18,20 46:6,14,18,23 47:4 48:1 88:4 gateway 4:3 130:5 gather 19:11				

illinois 2:24 127:12 illness 47:20 im 9:5,25 11:15,19 12:3 16:11,18 18:24 21:25 24:12 25:24 29:8,11,17 31:6 32:5,5 36:13 37:14 38:5 40:19 53:7 58:12 59:7 61:17 65:22,24 71:2 75:18 81:7 83:24 84:11 85:11 89:25 91:14,15 93:2 96:9,22 97:9 101:1,3,16 103:19 106:12 107:3 109:7 110:4,9,16 110:20 115:22 116:17 118:17,23 119:8 120:14,24 121:13,22 123:14 immediate 43:3 46:2 58:19,22 82:22 98:10 immediately 59:25 85:4 91:1 imminent 60:13,16 66:19 67:2 impact 94:24 119:13 implements 122:18 important 40:25 41:1,3 78:3 111:3 119:12 124:10 125:6 impossible 50:8 improve 105:13 improved 64:19 105:15 inaccurate 26:9,15 119:3 inappropriate 36:22 inappropriately	42:21 incapacitation 75:5 75:20 79:7 87:11 98:10 inch 125:15 inches 75:7 77:19 83:14 incident 15:5 28:25 65:18 112:20 124:9 incidents 105:20 106:16 124:12,19 included 21:17 including 53:11 60:6 68:19 104:1 124:11 income 12:4 incorporate 68:24 incorrect 101:4 increase 90:20 increased 68:16 114:11 115:5 increases 47:13 48:2 89:11 indecent 51:23 52:8 52:11,17 54:19 55:11 56:9 independent 78:18 78:25 91:13 123:13 indepth 110:12 index 5:1,5 indicate 65:19 71:7 72:21 79:11 80:16 92:24 112:3 indicated 72:10 indicates 84:18 93:11 118:24 indicating 73:3 individual 34:1,8 44:14 45:22 46:2 49:10,13 53:19 69:19 70:7 72:10 81:15 84:9 89:22	90:9 93:15 94:5 individually 1:1 2:5 individuals 7:11 8:9 75:6 inference 89:14 influenced 30:13 info 64:17 information 60:11 90:14 118:2 informs 73:21 inherent 58:15 89:11 inherently 47:21 inhouse 90:15 92:8 122:8 initial 13:15 50:7 58:23 73:9 84:23 98:7 99:21 initially 43:7 50:10 initiated 97:15 injured 36:8 48:9 60:4 injury 34:25 47:3 48:2 68:19 74:17 81:11 input 28:7 inquiry 8:23 inservice 111:19 instantly 86:8 instruct 90:13,24 instructions 95:25 instructor 33:1,2,6 33:8,11,12 65:15 65:17,18 122:17 instructors 45:12 122:12,13 intend 20:22 intended 76:11 intentionally 34:23 114:14,25 intentions 43:17 interacted 54:4 88:19 interacting 42:13	42:21 interaction 14:9 47:1 interested 127:5 interesting 85:24 intermediate 67:24 internal 90:14 120:21 121:16 international 8:12 30:10 32:25 35:6 35:10 65:25 68:1 68:9,25 108:4,7 125:5 internationals 66:5 66:11 interrogatories 6:23 intersection 60:9 intervals 91:2 interview 14:22,25 45:14 interviewing 14:20 investigate 51:3 investigated 105:6 investigating 104:9 105:8,12 124:8,18 investigation 107:23 116:5,19 120:21 121:16 123:14 investigative 54:13 104:9 investigatory 50:19 50:23 involve 11:20 involved 8:7 17:8 30:21 31:7 34:18 35:18 81:11 involvement 35:21 94:9 involves 64:6,8,12 involving 11:17 35:2 64:9 iowa 34:16	isnt 59:10 issue 18:25 19:9 90:23 108:11 118:11 issued 22:22 68:9 109:16 issuing 26:24 items 100:24 102:23 ive 7:16,16 8:21 10:18 11:22 12:9 16:6,18 17:3 20:24 22:8 23:2 24:7,17 28:5 30:21 38:12 40:15 45:16 82:10 118:13 <hr/> J <hr/> january 11:6 24:11 26:24 jargon 92:14 jason 1:2 2:6 20:17 60:16 jeopardy 43:20,23 44:5,9 46:2 48:10 48:12 job 10:24 94:17 john 34:19 johnson 3:5 5:2 6:10,10 7:2,6 48:22 74:3 85:24 91:25 96:11 106:22 107:10 johnston 4:2 jumped 58:12 jumping 59:2,11 justice 36:1 justification 78:18 78:25 109:13 justifications 98:2 99:2,8,10 justified 98:23 109:12
--	---	---	---	--

K	knew 57:17 114:3	lawful 6:19	35:12 110:16	11:23 126:9
kaminiski 6:6	knife 43:25 44:1,10	laws 109:25	118:22	129:11 130:7
74:10 89:16	44:11 46:3,12	lawyer 10:8 37:11	listed 35:13 102:10	lower 51:1 69:14
kaminski 1:12 2:15	63:10	38:17	102:13 103:20	70:7,20 75:10,10
14:15,22 28:24	know 7:25 9:24	lay 15:12 83:3	listen 72:4	97:11
49:20 50:6 53:13	17:3 29:19 30:11	lead 25:19	listened 49:12 72:7	lump 119:11
54:1,5,8 55:9 56:5	30:12,23 32:17	leads 70:3 89:14	116:21 117:8	lunge 78:11
56:8,16 57:11,12	36:6 37:11 38:13	leave 46:13	listening 115:23	
57:16 58:9,17	38:15 39:20 51:21	led 60:12 117:22	116:16 117:11	M
59:6 60:3,8,15,17	51:24,25 53:4,9	ledge 39:12	literally 30:14	m 2:23,23 3:5 48:24
60:19,24 61:6,9	53:11 58:13 63:3	left 11:2 24:15	literature 66:6,11	49:17,24 64:18
61:18,22 62:18	66:16,24 68:22	32:11 53:5 54:17	litigation 12:5	74:5 90:23
63:1,12,25 65:12	76:10 91:22,23,24	70:17 74:21	21:11 37:15	m26 33:5 64:15,22
66:10 71:3,9	92:2,14 93:8,17	123:16	104:25	64:25 90:19
75:24 76:8,24	94:6 96:11 100:5	legal 8:24 10:11	little 95:22 98:25	madison 3:7 128:18
77:8,15 78:7,11	105:3 106:13	110:6,14	120:17 125:10	129:4
78:22 79:11,19,21	108:11 111:18	legitimate 67:10	living 19:12	magazine 39:11
80:3 82:15,16,25	118:5,17 122:6,7	lengths 125:1	located 63:19	magazines 39:22
83:15,20,21 84:2	knowingly 52:12	lesson 32:21 66:20	location 79:25	mail 8:1
84:4,19 86:2,10	knowledge 22:10	66:22	locations 60:22	mailing 8:1 110:16
86:12,18 87:6	25:23 28:17 59:8	level 40:12 55:18	lock 75:25 87:10	maintained 10:18
88:3,7,10,15,18	111:22 116:8,13	84:13 91:1 92:13	log 115:24	10:20 45:21 116:4
89:7 90:12 91:11	123:5	105:13,15	logged 119:13	maintaining 41:1
91:17 93:3 94:22	known 43:20	levels 108:25	logs 89:14	major 7:16
96:3 97:17,24	knows 52:13 57:12	109:11	long 8:5,18 15:10	majority 16:3 48:7
98:12 99:10 104:1	L	library 102:23	16:17 39:19	makers 111:10
106:23 108:15	lady 118:14	license 16:20	125:15	male 72:11
113:10,17 114:13	laid 80:11	licensure 26:20	longer 67:9 91:2	malfunction 70:6
114:22 123:13	lane 57:5	lies 42:12	93:20 94:19	125:7
128:5	language 81:19	lieutenant 57:9	longest 125:13	man 54:9 55:12
kaminskis 55:23	84:25	92:16,18 123:7	look 19:18 31:24	114:20 120:4
58:23 92:21	laser 70:2	lieutenants 111:16	36:21 53:21 56:24	manner 41:9 97:19
108:18 112:12	late 26:6	lifetime 52:2	103:3 107:2	98:8 99:6
120:23 121:17,24	law 16:14 30:18	light 57:6	looked 27:5,6,16	manufacturer 66:3
123:8,17	33:18 34:6 39:6	lightning 65:2	looking 22:5	93:14,17,25 96:23
kansas 3:8 128:19	39:14 41:5 42:25	likelihood 48:2	118:17	march 1:20 2:22
129:5	49:4 50:12,13	likewise 41:15 57:7	looks 109:19	6:2 126:10 127:8
keep 46:4 111:4,16	52:10,16,19 55:16	limitations 18:11	lost 37:12	marguerite 49:1
kicking 85:3	57:13 58:23 59:5	limited 25:22 46:19	lot 13:20 16:22	56:6,17 60:10
kind 24:10 64:21	60:21 100:14	linda 2:23 126:1	25:16 32:6,12	74:6
king 61:13	102:15 110:13	127:11	63:19,23 100:9	marked 22:16 23:6
knees 77:9,13,16	111:5,11,12,17,23	line 90:25 92:13	lots 72:22	23:13,25 25:8
78:1,2,8,9 82:17	112:4	lipa 4:3 130:5	louis 2:21 3:16,23	41:23
83:13 85:9 112:14		list 13:10 24:3	4:5 6:4 7:10	martinelli 25:7,13

26:12 master 33:6,8,12 33:15 65:17 material 21:2 22:14 23:1 26:23 27:9 66:1 71:13,15 99:22 100:1,5,6 100:13 101:6,23 102:5,13 111:2 materials 18:21 19:13,15 55:3 65:19 80:16 matrix 50:20 matter 11:17,20,22 13:18 14:19 15:3 18:7 20:9,14,23 22:23 23:5 24:18 24:22 26:25 38:14 52:24 90:5 97:6,7 108:10 121:3 matters 8:6 12:1 13:12 57:10 mean 41:12,25 42:1 50:21,25 73:19 81:2,3,8 87:20 88:18 89:4 105:15 109:11 117:15 meaning 71:22 81:17,20 102:24 means 69:23,24 87:21 meant 72:14 mechanical 122:18 medical 9:4,6,18 20:17 61:2 62:2,3 62:23 94:20,21,23 95:2,3 meet 7:7 21:7 111:20 meeting 110:11,12 110:18 member 29:15 74:17 members 29:10	memo 128:1 memorialize 37:2 38:18 memory 31:15 39:17 49:22 77:23 107:1 memphis 28:1,21 mental 47:20 mentally 42:13,22 43:24 44:6,10,13 44:20 47:17 62:20 mentioned 31:16 38:15,16 39:24,24 40:15 72:13 101:3 102:23 110:9 met 12:21 51:13 107:17 methodology 18:16 18:20 mid 43:21 mid80s 8:22 mid90s 32:11 mind 21:6 26:10,18 43:9 57:6 72:20 117:23 126:12 mine 23:24 minimize 105:20 minor 1:4 2:8 minute 50:1,3 minutes 12:23 15:12,18 73:1 74:4 95:23 misconduct 12:17 17:2,5,7 105:14 105:16,21 misdemeanor 52:20 55:18 mission 41:15,19 43:1 44:15 50:10 missouri 2:2,21,25 6:4 7:25 8:4 10:14,17,18,21 40:10,11 49:2 51:15 52:3,10,19	53:21 55:16 56:8 62:7 126:6,9 127:12 130:7 mixed 36:14 mo 3:8,16,23 4:5 128:19 129:5,11 model 27:5,10 28:8 28:22 29:6 30:4 31:13,18 64:11 80:21 94:16 100:21 models 29:9 modified 90:19 modify 19:6 28:4 moment 57:11 63:22 83:22 85:20 moments 54:4 monell 103:17,22 money 16:13 month 11:2 12:11 months 23:11 moore 1:1,2,3 2:5,6 2:7 3:3,12 6:6,11 6:13 20:14,17 51:4 52:25 53:14 55:21 56:1,9,18 57:17 58:8,18,19 58:22 59:6 60:4 60:13,16,22,25 61:1,7,7,13,19,23 61:23 62:18 63:2 63:2,5,13,13,16 63:24 70:24 71:3 73:20 74:9,21 75:2,13,19,25 76:3,8,24 77:9,13 77:15,25 78:7,11 78:23 79:3,3,12 79:20,20 80:3 82:15 83:1,2,7,19 84:2,3,18 85:8 88:4,8,11,16,20 88:24 89:16 91:17 93:4,12 94:22	97:16 98:3 107:19 107:20 108:14 112:13 113:7,15 128:5 moores 38:22 70:17 83:6 114:23 115:1 morning 7:8,19 12:22 49:5 53:16 56:21 57:1 112:13 120:23 123:9 motorcycle 34:24 motorist 58:11 move 85:10 87:7,23 119:15 movements 77:7 moving 42:8 101:24 multiple 36:15 49:9 49:13 116:20 mumbling 61:24 62:1,22 municipal 53:2,4 municipality 11:24 <hr/> N <hr/> naked 53:19 54:9 55:12 59:11 61:7 97:16 99:4 120:5 name 7:3,6 29:21 107:16 118:17 128:14 named 12:16 narrative 18:23 21:9 23:2 narratives 121:6 narrowed 46:19 narrowly 23:3 nation 28:2 national 28:3 29:15 40:7 110:10,21 natural 33:21 nature 20:12 59:9 near 70:20 74:24 114:24	necessarily 32:20 50:25 51:14 111:9 necessary 48:13 67:9 100:12 122:18 need 21:7 36:13 91:6 needed 25:17 84:15 negative 43:18 68:17,19 negativity 41:16 net 3:17 neuromuscular 75:20 79:7 87:11 neuromusculature 75:5 never 63:3 74:2 78:14 88:18 123:5 night 13:2 15:9 nmi 87:11 nonassaultive 85:8 noncompliance 81:17 83:9,11 noncontrolled 69:15 nonpreferred 113:23 nonresponsive 85:11 119:16 normal 119:1 120:24 130:3 normally 102:16 110:18 north 3:15 49:1 56:5,17 60:10 74:5 notary 130:13 notes 18:18 notice 126:4 notified 106:1,4 november 10:17,22 68:6,12 nudity 55:24 number 14:1 15:25
---	--	--	--	--

27:10 29:6 33:13 39:18 49:12 51:12 51:18 54:18 58:6 67:8 72:12 93:18 94:15,17 99:25 numbering 27:14 numrich 3:6 128:17 129:3	occurring 50:9 occurs 74:2 october 27:19 28:9 29:6 30:4 odd 70:10 offense 51:11 52:11 52:19 54:19 offenses 55:17,18 offered 17:13 39:2 offering 13:25 14:4 38:21,24 103:15 103:17,19,24 104:3 106:18 offers 30:20 90:14 office 6:3 7:24 37:24,25 officer 10:13 14:9 16:23 17:1,7,9 24:14 26:13 34:22 40:20,22,24 41:1 41:4,14 42:4 43:16,20,23 44:5 44:9,19,25 45:9 45:21 46:13,20 47:10,13 48:3,10 49:16,20 50:1,6 50:13 51:8,10,14 53:13 54:1,5,8 55:9,23 56:4,5,8 56:16,19 57:5,16 58:9,17,23 59:6 60:3,8,15,17,19 60:24 61:5,9,22 62:6,7,10,14,18 63:1,12,25 65:12 66:10 67:8 71:3,8 71:22 74:4,9,12 74:15 75:23 76:8 76:24 77:7,15 78:7,11,22 79:11 79:14,17,19,21,24 80:2,3,17,19 81:22,22 82:14,16 82:20,25 83:15,20	83:21,24 84:1,2,4 84:14,19,24 85:6 85:17,22 86:2,10 86:12,17 87:6,22 87:23 88:3,7,10 88:14,15,18 89:7 89:15,15,21 90:9 90:12 91:11,17 93:3 94:22 95:1,3 95:4 96:3 97:17 97:23 98:14,21 99:10 104:1,1 105:20 106:1,23 108:15,17 110:5 112:12,25 113:8 113:10,16,24 114:1,13,20,22 119:23 120:23 121:16,24 122:21 123:6,8,15,17 128:8 officers 13:16 14:15 14:22 15:13 16:20 21:8 29:2 37:22 42:13,20 43:11 45:4 46:22 48:11 48:25 49:7 53:12 57:18,23 58:1,5 60:20 61:3,12,14 61:17,19 66:16,24 70:13 71:8 72:10 72:15,17 73:4,17 73:22 76:9 77:1 81:18 87:21 88:22 88:23 89:4,10,12 104:10,19 105:9 106:1,9 108:24 111:4,12,16,17,23 115:17 116:11,22 118:24 119:6,18 120:10 122:9,20 offices 25:1 126:8 oftentimes 47:10 oh 49:25	okay 17:11 36:15 36:17 37:25 78:5 90:1 97:10,25 99:13 109:10,14 117:20 118:19 119:19 121:14 123:21,25 olive 4:4 130:6 once 52:22 77:12 79:2 80:25 81:5 ones 40:14,19 93:24 ongoing 85:18 98:22 open 46:11 operate 8:10 50:18 operating 63:18 operational 50:5 67:10 opinion 25:12,17 26:5 34:23 41:13 42:12 50:7 58:25 70:18 75:7 82:15 82:18 89:8 91:4 100:20 103:14,22 109:16,21 118:8 119:14 opinions 10:11 13:25 14:4,11,12 14:14 18:2 19:7 25:3,10 36:3,19 38:21,24 39:2 102:7 103:17,19 103:24 104:3,7 106:18 107:25 115:11 117:21 118:11,12 opportunity 7:7 18:9 21:5 87:24 89:12,20 90:6 opposed 14:5 78:8 115:1 options 89:12 oral 6:22	order 22:19 29:23 30:8 31:11 39:14 98:20 105:23 117:24 120:18 ordered 96:25 98:16 orders 45:4 67:16 68:23 97:17 99:5 99:15 111:14 ordinance 51:23 52:8 ordinances 51:22 ordinarily 45:17 organization 30:1 40:11 organizations 93:19 94:2 origin 8:15 original 110:6 112:19 128:15 129:1 otto 3:6 outcome 41:17 43:18 68:17,19 94:24 outside 17:12 106:13 overt 84:9,15 overtly 83:15,20 84:4,18 owner 108:9 ozark 10:16,21,25 11:3
<hr/>				
O				
oaths 126:2 object 62:4 73:23 96:4 106:19 109:2 113:3,20 115:20 119:25 121:21 122:5 123:10 objection 109:6 objections 126:22 objective 41:15,19 44:15 50:5,10 67:10 objectively 18:2 56:24 obligation 45:1 obligations 56:23 observation 84:3 112:25 observed 75:25 77:3,8 80:3 84:1 113:8,10 119:24 obstruction 51:17 obvious 125:11 obviously 15:13 20:5 25:10 46:13 48:7 55:11,24 occasion 16:11 occasions 17:6 34:13 78:24 occur 42:7 80:20 occurred 58:14 63:20 93:10 119:4 124:15 occurrence 38:16 57:18 71:8				
<hr/>				
P				
p 3:6,14,21 page 97:3,11 99:1 99:24 101:9,24,25 101:25 109:18,19 pages 22:25 99:24 100:1 102:14 126:19 paid 35:9 130:2,3 paper 94:16				

paragraph 97:12	perceive 84:24	photographs 70:23	85:14,25 88:2,6	100:25 102:25
parallel 47:11	85:17 98:14	phrase 41:21,25	91:9,16 100:16,24	106:3 109:22
parent 32:9	perceiving 82:22	43:19 87:17	100:24 101:1,10	110:10,21 111:8
parked 63:23	percent 12:4 16:7	physical 42:17 47:1	102:24 103:2	111:10 123:9
parking 63:19,23	perception 47:19	66:19 67:2 80:19	112:17	population 45:5
part 14:19 15:2	76:9	85:15 96:18	points 41:22 99:25	portion 54:17
27:2,11 31:17	perf 30:16,19,24	physically 53:9	100:19	97:11
35:24 67:11 85:17	31:2,8,13 39:24	74:9,12,14,17	police 7:10,12 8:6	portions 23:4
85:18 100:2	40:4 65:23 76:12	81:21 87:25 89:6	8:16,19,21 9:2	pose 60:16
104:13 105:2	76:15,16,19 93:22	physicians 20:16	10:13,16,18,21	position 38:18 77:5
106:7 110:7 115:2	94:6,10	physicist 10:6	11:9 12:9,10,17	85:4 94:12 112:15
115:10	perfect 87:8 118:7	piece 26:7	15:2 26:20 30:17	113:2,8,13
participated 28:24	perfectly 70:4	pitzer 2:20 3:21 6:3	32:7 33:23 39:1	positioned 63:16
particular 14:4	performance	11:12,25 100:14	39:10,11 40:2,5,8	possess 63:2,5
27:24 28:6 58:2	124:15	102:15 126:8	40:10,12,16 43:17	possibility 47:8
59:13 62:13 63:22	performed 94:21	129:9	44:25 45:4 48:7	68:17
92:18 111:18	120:22	place 28:14 82:24	48:25 51:6 53:1	possible 41:9 87:22
118:10	period 106:10	105:20	54:13 55:22 56:3	125:13
particulars 14:8	permit 84:8	places 59:2	56:4,10 61:3	postcertified 110:4
parties 127:4,5	permitted 10:11	plaintiff 3:12 6:12	65:13 66:17,25	postemployment
passed 120:18	perpetuate 105:9	15:23 16:11,15	67:6 68:23 73:6	106:24
passing 123:23	perry 4:3 130:5	17:15 34:14 35:1	73:19,21 74:14	posture 37:12
passive 81:15,17,20	person 16:13 18:17	35:16 37:7	84:14 89:13 91:9	posturing 38:17
81:24 82:5,12	43:4,14,24 44:10	plaintiffs 1:7 2:10	91:18 92:11,14,24	potential 40:23
110:25	44:16,20,24 45:12	2:20 3:3 6:10 7:9	96:1 102:3 104:1	41:16 46:2 47:1,2
patrol 35:22 36:2,6	46:5 48:5 52:11	16:2,4 19:19	104:8,13,18,18	47:2,14 58:14
36:11 37:20 62:15	53:15 59:11,16	plan 25:25 26:2	105:14,25 106:14	59:3 89:11 115:5
pattern 104:4	60:4 62:2,22	66:20,22 80:24	108:19,20 109:22	125:9
patterns 57:1	65:17 72:21 73:3	plans 32:21	110:8 111:3,15,16	potentially 26:3
pavement 75:17	82:20 86:22 87:10	pleadings 13:15	115:16 116:3,10	62:20 113:14
77:20	87:24 92:19	please 6:9,16	116:21 118:15	power 27:6,7,20,21
pc 128:17 129:3	118:21 124:9	124:24	120:5,9,22 121:2	27:22,25 28:13
pd 10:19 101:13	128:14	plug 95:15 96:14	121:20 122:10	31:16,19,20,25
peace 51:17 110:4	personal 1:1 2:5	96:19	124:10,15	32:2,20 71:21
peerreviewed 39:19	59:8,15 102:22	plugging 95:25	policies 12:12	87:18 88:11
pending 7:9 36:16	108:10	plunkett 13:23	67:16 69:1,3,5,6	100:16,19,24,24
126:4	personnel 16:22,25	point 25:11 27:6,7	105:19 123:18	101:1 102:24
penetrating 113:16	17:8,12 60:21	27:20,21,22,25	policing 92:11	103:2
114:23	104:13	28:13 31:17,19,20	policy 27:5,11,15	practical 41:18
pension 12:9	persons 14:25	31:25 32:2,21	28:9 29:15 30:8	46:16 87:3 89:21
people 29:14,20	47:20 59:13	34:6 52:2 56:20	30:14 31:11 32:19	90:8
36:21 37:19 42:7	perspective 8:24	61:14 76:3,19	65:7,10 67:7,18	practice 8:9 43:17
43:13 45:3 49:13	61:3 124:10	77:12,25 78:6	76:16 80:22 82:11	104:4 109:23
111:1	phone 36:24	83:16,21 84:3	84:7 94:16 100:21	111:8 124:18

practices 9:2 40:2,5 40:8,12,16 predecessor 64:23 predict 47:24 preference 7:18 92:4 93:14 preferred 68:13 86:23 90:11 prepare 12:21,25 108:21 prerandom 106:24 presence 55:23 56:3 present 87:21 presentation 27:6,7 27:22 28:13 31:19 31:21 32:2 102:24 presentations 27:20 presented 56:24 57:22 presenting 12:11 preserve 120:9 preserved 116:9 120:6 pretty 64:21 66:4 100:11 prevent 83:10 124:11,19 preventing 82:23 85:7 previously 77:3 107:23 115:9 primarily 14:7,14 22:14 23:22 primary 40:18 44:14,23 50:10 64:16 prince 33:3 principle 30:15 printed 13:2 22:25 printout 95:5,17 prior 29:2 31:3 53:15 56:4 66:12	85:10 96:12 108:19 116:20 priorities 42:5 probabilty 81:11 probable 50:24 51:1,4,9,13,20 53:18 probably 8:21 9:22 11:10 12:10 22:8 38:5,18 53:24 62:9 71:16 72:14 108:9 probe 69:9,14,14 69:14,15 70:1,3,6 70:8,16,19,20 74:21 75:1,10,10 79:21,25 87:12,15 113:11 114:6 probes 69:10,13,20 69:24 124:25 problem 62:10 95:19 100:9 125:7 procedural 37:12 procedure 86:21,23 procedures 12:13 105:19 process 19:5 29:17 39:19 40:21 80:1 85:19 90:11 95:10 95:24 96:8,17 98:21 104:9 110:12 111:11 120:24 122:7 processes 19:3 produced 30:8 31:14 49:16 54:12 54:18 104:25 118:16 product 66:12 professional 93:19 program 28:1 95:13 96:19 progress 71:20 prohibited 68:14	113:22,24 114:2 promulgated 65:21 94:14 prone 113:13 proper 86:21 properly 87:16 property 61:20 propounded 6:23 126:21,25 prosecute 53:24 provide 100:10 provided 19:22 20:1 26:4 27:9 86:9 92:1 101:6 providers 20:17 provides 64:19 provision 52:1,10 proximity 68:16 80:4 prudent 62:7 pspclaw 3:25 psyche 61:2 62:2,3 62:23 psychiatry 9:11 psychological 106:23 psychology 9:9 public 73:22 74:18 104:19 130:13 publication 35:12 publications 23:16 23:20,21 27:2 39:6 published 39:22 pulled 34:23 114:15,18 pulling 114:7,14,17 pulls 114:25 punch 118:6 punches 77:5 punching 85:3,20 purchase 96:21 purpose 114:16 purposes 114:21	pursuant 126:4 pursued 34:24 push 42:14 pushing 49:10 120:5 pushup 112:14 put 18:11 29:20 69:7 87:5 <hr/> Q quadrant 57:24 qualified 126:2 quarterly 110:11 110:18 question 8:22 37:6 78:3 83:17 84:11 90:2 98:25 101:15 109:8 114:22 119:17 124:24 questions 5:2,3 7:2 44:3 48:22 72:12 97:9 107:11,18 125:19 126:21,24 quick 45:10 quickly 42:3 101:19 quicklymoving 42:6 quite 118:6 quote 68:13 109:21 <hr/> R r 1:3 2:7 radio 60:19 raise 85:24 ran 119:7 random 91:2 92:25 ranking 92:19 rapidly 41:21 42:1 42:25 43:2,9,12 59:24,25 60:1 108:14,22 109:4 rare 36:18 38:16 rate 20:24 21:11	rating 33:1,11,12 33:12,15 rationales 98:2 reaching 18:2 react 45:4 47:5 reactionary 45:8,15 45:18,20 46:6,14 46:18,23 47:4 48:1 reacts 43:14 read 18:25 54:16 54:21 58:20 97:20 103:5,6,7,8,9,11 103:12 111:1 118:14 reading 89:13 110:17,23 112:2 118:20 realign 95:18 really 16:17 33:10 101:19 reapplication 86:7 rear 99:23 reason 34:3 44:19 44:22,23 49:7,24 52:6 68:18 76:14 92:7 105:21 122:23 reasonable 36:4 82:20 84:24 85:6 85:22 94:17 98:13 98:21 reasonably 31:6 45:10 62:7 81:12 85:18 reasons 95:18 reassessed 113:25 reassessment 32:18 recall 29:4 31:15,24 33:10,13 35:25 38:3 39:18 49:11 49:22 54:14 56:21 57:5 58:3 63:21 65:16 67:17 72:8
--	---	---	---	--

72:11,13,16 73:2 77:22,23 79:24 92:19 93:25 103:11,23 104:22 106:3 111:19 112:2,16,18 115:24 116:16,18 117:10 118:5,11 118:20 123:19 receive 8:1 18:24 26:23 59:9 65:12 103:12 110:15 received 13:4,6,15 13:17 21:23,24 24:9 49:16 54:8 102:10,18 112:5 receiving 49:21 recess 48:16,18 101:21 107:8 124:5 recognize 44:25 62:14 recommend 92:6 93:19 95:19 recommendation 94:7 recommended 94:4 94:15 reconstruction 9:13 record 6:1,9 7:4 48:17,19 91:24 92:1 93:10 101:18 101:19,20,22 107:7,9 118:4 124:3,4,6 125:21 recorded 116:12 recording 115:15 recordings 115:19 116:12 records 13:4,11,11 14:17 20:1 55:7 57:21 79:10 92:23 118:21	recurring 81:6 reduce 81:10 105:15 reduces 89:10 reducing 41:16 refer 97:3 reference 36:2 63:21 72:16 93:18 107:25 referenced 27:24 28:6 31:20 34:12 67:18 69:4 101:10 102:20 referencing 31:25 referred 27:14 31:22 45:18 110:15 refers 112:13 reflective 9:23 26:11 refusing 97:17 99:4 99:15 regain 82:21 85:16 85:22 regaining 85:1 regard 68:1 regarding 125:3 region 28:6 regular 59:10 96:8 108:6,8 relate 104:4,17 related 32:19 37:15 42:5 55:12 108:4 127:5 relates 8:23 14:8 27:7 28:10 30:24 37:21 65:10,14 68:15 106:14 110:1 relationship 125:6 relatively 53:18 95:10,24 96:17 release 86:7 98:12 98:12,19	relevant 18:25 27:18 110:22 118:10 reliable 87:13 118:3 relied 59:4 rely 25:3 59:20 relying 59:7 remain 98:15 remarks 126:22 remember 115:22 remembered 107:5 removed 95:11 render 20:23 rendered 20:19 36:19 rendering 36:2 104:7 renee 1:3 2:7 3:3 6:11 repetitively 83:4 rephrase 78:4 84:12 reply 6:22 report 13:2 19:9,11 19:14,15 20:5,7 21:2,17 22:5,15 22:20,22 23:2,3 24:19,20 25:7,14 25:20 26:24 37:3 37:3,8,21 38:3,4,8 38:11 41:22 54:13 54:14 55:4 58:8 74:5 89:14 93:4 97:3 103:3 104:17 104:23 105:3 106:17,23 109:15 112:19 117:15,17 121:2,5,6,20 123:11,12,16 reported 55:8 126:17 reporter 6:16 22:18 23:8,15 24:2	reporting 4:3 130:5 reports 13:16 57:22 120:25 122:1 represent 7:8 52:9 54:25 107:19 118:23 representative 1:2 2:6 representing 37:20 republic 10:21,25 11:1,2 request 32:18 112:8 required 84:13 86:18 requirements 20:4 research 30:17 35:10 107:22 115:4 resist 87:25 resistance 81:15,17 81:20,24 84:13 resisters 82:6 110:25 resolution 95:19 resources 89:21 90:8 respect 63:17 respects 126:23 responding 8:22 14:9 72:22 response 20:4,8 87:12 97:16 99:15 115:3 responsive 26:16 37:5 81:7 85:20 result 48:8 75:7 94:19 98:9 resulting 34:24 results 75:4 retained 11:23 17:20 24:25 35:5 35:16 36:10 37:19 retired 10:19 32:8	34:4 reveals 72:3 review 14:17 18:14 19:13 21:19 27:2 27:9 31:10 55:2,7 57:21 63:4 65:9 65:19 71:1,6 79:10,14 92:23 104:12,16,21 105:23 106:22 111:13 120:25 121:14 122:16 123:11 reviewed 13:3 27:11 31:17 55:3 65:6 70:23 71:13 71:15 77:24 83:23 84:18 99:23 100:2 100:14 101:23 102:6 104:25 117:13 reviewing 18:21 21:2 22:14 30:7 reviews 110:3 revised 29:6 30:4 revision 31:2 revisions 30:23 rick 108:9 right 11:16 16:5 37:13 54:7 58:15 64:2 67:13 83:25 88:17 111:13 113:15 115:25 123:15 rights 110:1 111:5 rise 76:3 77:25 78:7 risk 32:19 47:8,10 47:11,13 60:13,16 89:11 114:5,11 115:1,5,7,7 risks 40:22 road 49:10 60:10 63:18 64:4 74:6 roads 49:1
---	--	---	---	--

roadway 53:7,20 59:1 63:22,24 rodgers 1:3 2:7 3:4 6:11 role 12:8 rolled 79:25 rolling 24:3 rounds 86:4 row 69:22 rule 20:4,9 23:1 run 111:1 121:23 runner 76:21 running 55:12 61:10 71:19 76:22 120:4 rush 43:8 rushing 43:9	61:23 71:8 79:19 88:15,22 89:15 92:22 94:25 113:1 119:22 120:18 schematic 69:5 school 9:6 scientists 125:10 scope 41:16 scrambled 118:3 screaming 120:5 se 20:25 seal 130:10 second 42:10 48:11 71:12 72:8 73:16 79:2,8 85:21 86:3 86:6 87:22 90:4 98:11,12,19 99:13 114:8 119:23 seconds 73:18,20 93:21 section 57:24 secure 87:23 see 18:8 44:24 66:9 91:8 95:5 96:8 97:12 99:1,1 107:3 113:13 115:10 117:22 118:10 seeing 54:14 seeking 16:13 seen 7:16,16 16:6 16:18 45:16 91:15 95:6 96:15 115:10 115:14,18 sense 19:3,6 25:18 62:9 109:12 111:8 118:8 sent 13:8 29:2 sentence 98:1 separate 86:18 separately 97:1 september 28:10,15 28:22 29:3,23 31:3 48:24 51:22	53:16 58:1 63:25 66:7,12 67:20 68:22 72:6 74:15 76:18 84:8,15 91:11 94:2,14 96:3,12 97:24 sequence 19:8 sequential 19:3 27:13 sequentially 19:6 sergeant 92:15,21 serious 34:25 68:19 service 59:18,19 services 12:14 set 17:11 21:18 35:6 42:3 43:4 95:13 100:1 126:20 130:8 seven 73:18,20 101:10 shafaie 3:20,25 6:14,14 12:21 62:4,24 73:23 91:21 96:4 100:18 101:18 106:19 109:2,6,18 113:3 113:20 115:20 116:14 118:18 119:25 120:13 121:21 122:5 123:10 124:13,21 125:19,23 shannon 118:18 sheet 54:12 sheriffs 10:20 40:7 shooting 24:14,15 short 48:15 107:6 shorter 47:5 shorthand 126:18 shortly 34:4 shot 34:1 shots 68:15 shoulder 24:16 shouldnt 44:10	show 58:5 120:4 showed 79:3 101:15 119:18 shown 24:17 126:16 shows 73:12 122:1 side 18:5 124:16 sideways 70:11 sight 69:21 sights 69:19 70:2 sign 19:16 signature 127:1 significant 26:18 46:1 similar 52:1,9 simple 95:10,24 96:17 simply 27:14 43:14 59:17 62:6,13 85:16 113:25 single 19:4 95:13 sir 7:14,15,19,20 8:11,20 9:3,7,10 9:12,14,16,19,21 10:2,3,5,7,9,16 11:1,19 12:14,15 12:19,20,23 14:2 14:3,16,24 15:4,8 15:19 16:9 17:10 17:21,25 18:3,11 18:12 19:10,17,21 19:24,25 20:2,6 20:15,18,21 21:5 21:6,10 22:13,21 23:2,18,19,23 24:6,23 25:2,5,21 26:22 27:1 28:12 28:19 30:22 31:1 31:15 33:1,10,16 33:17,22 34:9,17 34:19,21 35:8,11 36:7 37:17,23 38:8,11,23 39:3,5 39:9,13,15 40:3,9	40:20 41:12,20,24 42:2,17,23 44:7 44:12,18,23 45:7 45:8,23 46:17 47:9 49:6,19,23 49:25 50:4 52:4,6 52:7,18 54:3,10 54:16 55:14,19 56:7 57:2,15 58:20 59:23 60:1 60:5,18 61:11,21 61:25 62:25 63:7 63:9,11,15 64:7 64:10 65:11 66:8 67:5,11,22 68:3 68:10 69:3,11,12 69:18 70:1,10,12 70:15,18,22 71:11 71:13,23 72:3,7 73:14,25 74:16,19 74:23,25 75:5,15 76:2,15,20 77:11 77:14,18 78:3,10 78:13,20 79:1,5 79:13,15,16 80:6 80:14,15 81:23 83:17 84:11,16,18 84:21 86:23 87:3 87:8,20 88:5,9,13 90:11,16,22 91:4 91:7,23 92:6,10 93:2,6,9 95:6,7 96:20 97:4,5,8,11 97:13,14,20,21 99:7,24 100:3,4,8 100:15 101:9,12 101:25 102:4,8,12 102:16 103:2,5,16 103:19 104:2,6,11 104:15 105:4,7,11 105:18,22 106:3 106:12,15,21 107:13,21 108:1,2 108:5,16,23 109:8
---	--	---	---	--

S

s 29:12 37:23
safe 44:15 46:16
50:10 89:20 90:8
safely 87:7
safest 41:9
safety 40:20,24
41:1,4
san 35:23 110:11
sat 9:22
saw 28:20 29:1,5,22
56:22 79:24
111:25
saying 37:4 51:14
56:12 57:5 64:22
67:12 83:5 120:10
says 6:22 30:15
54:25 76:12,15
93:23,25
scenario 43:23 44:8
44:13,21 113:18
scene 15:5,6,10,13
15:15 21:7 44:15
49:8,21 50:8,9,11
53:15 54:2 56:5
57:16 60:9,16,25

109:17,24 112:7 112:17 113:14,21 114:12,16 115:3 115:13 116:2,7,16 117:5,9,16,19,22 119:14 121:4,8,10 121:13,22 122:24 124:8,17,22 125:18 sit 117:10 site 20:25 21:3,20 sitting 114:21 situation 41:6,8 43:10,11 45:11,14 46:14 59:22 61:2 62:3 108:13,14 109:5 situations 108:22 situp 113:1,8 size 22:10 slamming 59:12 slash 54:19 slide 66:21 smith 108:9 snlj 2:12,13 snodgrass 2:20 3:21 6:3 126:8 129:9 software 95:13 96:19 solely 51:5 solid 75:5 solve 42:17 somebody 27:23 47:16 92:17 somewhat 19:11 118:3 sorry 11:19 37:18 71:2 83:24 85:12 sort 12:13 62:21 77:6 100:17 sound 126:12 sounds 13:19 81:19 south 2:20 3:22 6:4	126:8 129:10 southern 37:25 space 45:9 spark 91:6 spd 32:10 speak 28:2,23 113:25 specific 14:5 20:10 64:11 72:25 86:24 87:1 111:20 specifically 20:3 29:9 30:11,21 32:19 67:17 112:1 speed 85:1 111:4 spent 22:3 split 85:13 spoke 54:1 60:11 108:9 spoken 20:13,16 spread 69:23 70:5 75:1,4,9 87:12,15 springfield 7:25 8:3 10:14,19 12:10 28:5 32:3,7 33:7 st 2:21 3:16,23 4:5 6:4 7:10 11:23 126:9 129:11 130:7 stabilization 50:8 50:11 stamp 73:13 95:24 stamping 95:15 stand 31:12 standard 27:25 28:7 31:13,18 66:3 96:24 standards 30:20,22 30:24 standing 29:22 30:8 31:11 36:15 58:15,25 67:16 68:23 105:23 111:14 start 39:25 81:5	starting 99:24 101:24 starts 97:12 state 7:3 12:12 38:25 40:12,17 51:25 52:1 53:4 55:16 111:4,17,23 112:3 126:6 statement 128:9 130:9 statements 55:21 56:2 121:9,19 states 52:10 126:5 static 42:6 statistical 62:8 statistically 47:9 statistics 47:21 statute 51:15,25 52:1 53:4,21 stay 83:3 85:5 86:15 109:25 110:7,23 step 43:24 44:9 113:25 steps 93:20 steve 4:2 6:5 48:20 125:21 steven 1:18 2:19 6:18 7:5 128:11 stiffened 79:4 stomach 87:5 stood 30:2 stop 50:19,23 81:2 81:8 97:17 99:5 99:15 straight 21:18 70:4 70:15 street 2:21 3:22 4:4 6:4 8:3 54:2 61:10 120:4 126:9 129:10 130:6 stricken 25:23 85:11 strike 25:25 35:17	90:12 119:15 124:24 struck 75:2,16 structure 21:17 stuck 95:12 studies 35:10 stuff 119:13 subject 26:20 47:11 55:21 56:1 67:8 93:15 112:6 submission 86:24 submit 45:1 submitted 22:15 23:12 sued 12:18 suggest 114:10 suggested 26:12 30:9 53:14 suggesting 29:12 96:22 suggests 115:7 suit 17:24 127:4 suite 3:7,15,22 4:4 128:18 129:4,10 130:6 summaries 18:18 19:22 20:1 summary 97:12,15 summer 13:20 supervisor 91:1 92:13,22 supplemental 25:20 121:3 support 16:25 supports 118:1 supposed 43:25 69:20 87:2 95:4 supreme 110:22 sure 11:14,22 17:6 18:22 21:25 38:5 38:21 56:14,15 58:17 81:7 89:1,2 89:7 90:2 91:25 100:23 101:1,16	102:10 105:17 107:6 111:10 120:14,24 surely 55:2 surprise 122:25 123:3 surprised 44:11 surviving 107:19 susceptible 48:5 suspect 24:14 33:21 33:21 34:8 45:21 46:20,24,25 47:7 53:7 76:13 87:7 98:14 swear 6:16 swinging 97:18 98:9 99:5 sworn 6:19 119:5 126:14 system 64:21 systems 118:6 <hr/> T <hr/> t 3:13 tactic 39:12 tactically 42:14 tactics 41:14 take 17:23 18:17 29:20 33:8 42:21 48:15 89:22 90:9 107:6 taken 2:19 6:5 9:20 33:2 48:16,18 93:20 101:14,21 107:8 121:20 124:5 taker 72:11 takes 29:13 80:23 talk 108:12 talked 44:21 100:16 talking 53:18 58:12 85:21 101:2,2 tapes 116:22
---	---	--	--	--

target 68:13,14	tell 16:1 36:22 59:4	57:15 60:1 62:16	33:17 34:19 35:15	81:8
tase 76:21 83:10	94:10 107:1	64:21 65:3 66:20	36:1 37:6 40:17	time 6:8 10:13
tased 83:10 115:2	ten 11:10 12:23	68:17 71:20 72:2	43:21 47:21,22,25	11:21 21:1,18
taser 27:5 29:22	tense 59:6	72:18 76:15 77:11	49:18 50:3 51:7,8	22:3,7 33:20,23
30:7,10,12,14,15	tension 59:15	78:3 80:21,24,24	53:4,25 62:16	39:1 42:5 46:7,9
30:22,24 31:2,10	tenyears 108:18	81:24 83:10 86:23	64:2 65:3 66:1	47:4 49:18,20,22
32:4,6,10,23,25	term 41:21 92:14	88:17 90:11 91:4	68:17 71:19,25	49:25 65:18 71:10
33:19 34:8 35:3,5	terminate 98:24	91:15 92:6 93:8	72:1,2,14,14 75:3	71:12,14,17,18,24
35:9,14,17 36:4	terminology 68:16	94:11 96:14 98:22	75:12,22 77:1,4	73:13 74:1,1 79:2
37:8,9,15,22 64:9	terms 102:9 103:6	100:11 102:8,12	80:7,9,10,11,21	79:8 80:2,11
64:11,17 65:10,14	test 91:6 106:24	102:18 105:1,4	83:4 93:24 99:12	85:21 86:1,21
65:15,21,25 66:5	testified 15:23	110:13 111:3	99:14 100:21	94:10 95:14,24
66:11 67:21,25	16:19,24 28:24	115:5 116:6	101:3,15 102:16	99:11,12,13,17,19
68:1,9,12,25 69:9	34:13 35:1 42:20	117:25 119:5	102:17 103:10,22	106:11 107:11,11
69:20 71:3,9	86:14 108:13	121:1,18 124:17	110:9,17 112:23	114:8,14,18,24
73:10,14,18,20	113:9 115:9	125:10	113:21 119:7	116:11 118:25
74:1,20 75:21	122:10,20 125:3	theme 42:11	120:14 123:11	119:12,19 120:18
76:4,7,13,23 77:8	126:16	theory 70:1 80:24	125:9	122:14
77:16,20 78:7,12	testify 6:20 16:10	theres 14:1 39:19	thinking 24:12 32:5	timeline 19:4,8
78:15,23 79:2,12	37:7 126:14	59:15 64:18 93:24	36:13 44:20 72:16	times 15:22 17:13
80:8,23,25 81:5,9	testifying 57:9	110:18,19 115:4	third 54:19 55:6,8	34:11,15 67:9
81:14 82:5,14	testimony 16:12,14	121:15	71:14,17 90:4	74:7 78:22 93:5
83:2,22 84:8,14	16:19 17:1,14	thereto 126:23	99:17 103:1,2	116:24
84:19 85:6 86:2,4	21:15 24:4 25:15	theyll 47:24 110:20	114:8	timing 72:15 118:9
86:11,13 87:9	25:22 38:10 71:1	theyre 45:3 53:8	thirty 11:10	tina 1:1 2:5 3:12
88:2,6,11 89:3,17	71:7 77:1 79:18	87:2 93:24 111:5	thorough 102:9	6:6,12 107:19
89:19 90:3,7,13	83:23 86:10	116:17 119:12	thoroughly 105:6,8	128:5
90:19,24 92:25	107:24 112:16	theyve 17:5	105:12	titled 65:3
94:5 96:15 98:3	119:6,15 121:15	thing 12:13 26:10	thought 22:5 34:3	tjohnson 3:10
98:23 99:11	122:16 123:22	26:17 41:2 53:17	36:25 62:18	today 6:2 11:5
101:11,11,14	126:17,20	62:21 66:13 77:6	threat 46:6,11	13:25 23:12 25:11
108:3,6,12 112:1	testing 111:22,25	100:17	66:19 67:3 81:6	25:25 26:3 66:2
121:6,23,25	tests 112:2	things 13:8 42:7	82:22 86:18	94:12 107:24
122:12,17,21	thank 6:15 22:1,2	48:4 51:18 100:16	threatened 53:9	todays 6:2
124:25 125:4,8	36:23 101:9	102:22 115:14	three 15:12,18	todd 3:5 6:10 7:6
tasers 66:2,18 67:1	107:11,13 125:17	118:7 119:9,11	39:22 50:12,18	told 14:10 82:2
tasertron 32:24	thankfully 82:12	think 10:17 11:6	74:4 86:3 93:4,15	83:8 85:5
taught 69:8	thanks 35:24	13:8,14,16,24	93:20,23 94:1,4	tomorrow 110:11
taxed 129:1,7	thats 7:9 8:12	14:7,10 15:25	94:11,18 99:2,5,8	tools 41:14 87:14
teach 45:12	13:24 14:11 17:19	16:1,4 18:10	99:9,12,24 100:1	top 20:7 69:16,17
technical 64:15,17	26:14,17 32:25	21:16 22:25 23:19	100:23 102:14	69:22,23,24,24
techniques 41:14	43:19 44:18,22,22	23:23,24 24:7	109:16	70:1,6,16,19
telephone 51:5	45:6,9 47:9 50:21	25:11 26:12,14,18	throw 77:5 96:23	74:20 75:10
56:10	52:4 54:7,23,25	27:5,6 30:15 33:3	thrown 77:12 81:1	torso 77:17,19

83:14 total 15:25 17:16 94:18 129:6,12 totality 80:18 tower 7:24 towit 6:23 toxicology 10:2 traffic 51:17 56:20 57:1,6,10 59:1,2 59:12 train 108:21 trained 30:12 62:7 66:17,22 67:1 70:13 122:12 trainer 33:11 trainers 45:16 training 12:11 27:21 28:13,22 29:2,25 31:17,19 31:21 32:6,13,23 52:15 55:15 59:8 59:21 65:12,20 66:1,4 69:7 82:11 96:20 103:25 108:12,18,19,20 109:22 110:4,5 111:19 112:1 114:10 115:6 transcribed 126:18 transcript 5:12 117:13 118:16,24 119:18 120:10,16 126:17,24 128:15 129:1 transcripts 130:1 transform 19:9 transition 82:9,12 transpose 18:25 travel 21:19 traveling 12:24 treating 20:16 trial 16:12 17:14 21:15 24:5 26:3 38:9 126:6	tried 38:9 trigger 114:7,14,15 114:17,18,25 trouble 42:12 true 7:13 9:4 37:16 41:23 44:17 47:9 48:6 49:2,3 54:6 55:1 63:14 64:6 64:25 70:17,21 74:8 77:10,11,21 85:9 86:19 95:6 102:8 103:2 105:4 119:5 123:20 126:23 truly 22:9 43:13 truth 6:20,20,21 126:14,14,15 try 19:3 81:21 trying 16:23 35:25 42:16 46:7 82:21 85:4 91:14 110:23 119:13 turn 43:7 turned 70:9 turning 83:11 twice 12:11 two 10:25 16:2,4 23:23 36:13 44:3 46:21 48:21 55:17 69:10 73:1 75:1 87:21 89:10 98:18 99:4 102:23 110:19 125:22 type 8:18 12:10 62:20 103:24 106:22,24 typed 117:17 typewriting 126:19 typing 19:14 <hr/> U u 29:12 37:23 ultimately 19:8 53:23 57:10 58:4	105:2 unarmed 46:5 uncertain 59:22 underlying 104:16 understand 11:19 14:2 48:23 49:15 73:7 124:23 125:12 understanding 28:18 37:14 52:24 55:7 57:23 68:7,8 93:6 109:7 112:12 115:4 122:15 125:4 undetermined 126:5 unheard 59:10 unique 43:4 united 126:5 university 8:3 unknown 43:15 unpredictable 47:22 59:14 unreasonable 36:20 109:9 unstable 47:17 unusual 43:5 59:18 62:8,14 update 28:17 31:5 updated 20:11 27:19 updates 110:6,14 upper 54:17 68:2 69:14 70:17 74:21 75:10 upside 70:11 upstairs 123:24 use 18:23 23:3 27:6 28:10 29:7,11,21 30:8,25 31:2,10 32:4 35:2,14 36:9 37:4,8,9,15,22 41:4,25 43:3 48:12 64:6,8 65:6	65:9,10,14,21 67:15,19,21 68:1 68:25 73:9,18 75:25 76:12 77:8 77:16,20 78:12,15 78:17 79:8 80:25 81:4,13 82:14 83:1 84:6,13 85:6 86:17 90:7,20 91:20 92:5,8,25 93:3 94:4 97:5 98:23 99:3,8,10 104:10 108:25 109:9,11 113:18 113:22 116:20 120:17,23 121:6 121:17 123:8,11 123:16 124:9,19 125:8 uses 64:20 86:2,13 91:17 104:22 usually 95:13 utilized 65:20 96:3 97:23 <hr/> V variables 45:19,24 various 40:17 86:2 vary 75:6 varying 87:10 vast 16:3 48:7 vehicle 15:20 71:17 80:5,9 vehicles 15:13 53:20 59:12 63:17 63:17,18,21 vendor 96:23 verbal 62:1,22 verbally 43:7 82:16 verbatim 30:3,6 80:21 version 27:16,18 66:2,5,6,11,13 69:7 121:24	versions 19:18 versus 6:6 13:11 89:10 100:6 111:12 113:13 vetted 32:15 video 1:17 101:11 101:14 videographer 4:1 6:1,15 48:17,19 101:20,22 107:7,9 124:4,6 125:20 violating 53:2 violations 104:5 virginia 33:4 visit 20:25 21:3,21 visually 15:12 voluminous 104:21 vs 1:10 2:12 128:5 <hr/> W waited 88:19 waive 125:23 waived 127:1 walk 18:20 95:8 want 22:7 46:3 57:2 85:13 92:7 95:1 97:3,5,22 98:25 99:22 102:9 105:19 wanted 15:14 18:8 115:10 wanting 103:7 wants 44:19 warning 67:25 68:9 68:24 wasnt 59:25 watch 8:12,14 21:24 way 35:19 44:16 45:6 58:8 64:22 67:4 72:15 89:9 102:16 104:24 106:5 119:11 weak 53:19
---	---	---	--	---

wealth 90:14	31:18 35:6 46:8	yoder 21:24	14 99:24 101:9,24	2012 38:5 66:15
weapon 33:20 63:2	68:8 95:16 100:2	youd 36:18	107:9	2016 1:20 2:22 6:2
63:6 67:24 73:20	103:6 104:14	young 24:16	14cv1443 2:12	26:24 126:11
wed 37:2	106:7	youre 13:25 19:13	14cv1447 2:13	127:8 128:13
week 37:1	worked 10:13	26:11,17 37:11	15 93:21 94:19	21 45:16
weight 118:12	11:12,25 82:4	46:25 47:16 56:12	16 101:25	210 3:7 128:18
went 11:2 33:5	working 19:1 30:1	58:25 67:7 72:18	17 48:24 53:16 66:2	129:4
117:24	55:16	82:2 91:12 101:2	66:5,7,12,13 72:6	211 3:15
whatevers 97:7	world 87:8	106:18 119:9	73:11 74:15 76:18	22 5:9
whats 64:14 103:20	wouldnt 32:12 80:8	121:11	96:12 97:24	23 5:6,7,8
121:1	96:23	youve 7:13 12:1	17th 64:1	2416750 4:6
whereof 130:8	write 18:23 58:8,18	16:19 17:1,20	1983 119:8	25 22:8,11,12 63:13
whitcomb 8:13	writes 74:4	20:19 23:17 24:4	1994 8:8,19,25	26 20:4,9 23:1
white 14:15,23	writing 36:19	32:3 33:18 41:21	17:17	28 26:24
26:13 49:16 50:1	written 35:14 37:21	78:21 91:25 95:6	1995 32:23 33:4	295 21:13
57:5 60:21 71:16	39:2 43:19 69:2	95:22 107:23	1999 33:4,7	
71:22 74:4,12	99:2 112:2	109:16	1st 10:17,22	3
79:24 80:2 83:24	wrong 109:13			3 5:8 23:25 24:3
84:1 88:14,23	124:15	Z	2	128:13
89:15 94:16 113:8	wrote 29:16 37:3,8	zone 57:25	2 5:7 23:13,16 75:3	30 63:13
114:20	43:21 44:8 64:25	0	75:12	31 124:4
whites 79:14,17	90:17 93:3 112:19	00 2:23 6:1	200 80:4,7,9	314 3:24 4:6
83:23 112:25		004741 2:24 127:12	2000s 82:10	32 124:6
wide 28:3	X	01 107:7	2001 82:7	34 2:23 125:21
widely 33:5	x 38:18 64:18 95:11	07 10:20	2002 82:7	
widow 107:19	101:15	084 2:24 127:12	2006 34:1	4
william 3:13 33:4	x26 28:12 32:4	093 52:5	2007 8:14 10:14	4 2:12,13 5:9 22:16
window 89:20 90:6	34:10 64:13,15,23		28:1,14,18 30:22	22:19 25:8 41:23
wire 95:12	69:9,20 71:3	1	30:24 31:6,8 32:8	99:1,23 101:9,24
witness 6:16 12:2	78:23 90:19 91:10	1 5:6 23:6,9 54:18	32:11,17 34:3	102:14 109:15
17:22 18:17 38:14	94:5 113:10,15	129:7	94:7	400 3:22 129:10
57:13 121:9	x26s 90:13	10 71:4 73:1,16	2010 27:19 28:9	4050 3:15
126:12,21,25	xp 113:15 114:22	101:20,22	29:7 30:5 31:6	41 22:25
130:8	125:13,14	100 2:20 3:22 6:3	32:17 33:15,17	4215545 3:24
witnesses 14:20		80:9 126:8 129:10	66:15 68:6,12	44 48:17
57:7,7	Y	1020 8:3	2011 28:11,16,22	45 48:24
word 29:13,13	yards 24:15	107 5:3	29:3,23 31:3 38:5	46 49:17
words 25:19 76:21	yeah 82:3	11 2:23 97:3,11	48:24 51:22 56:8	4600 3:7 128:18
work 8:15,16,19	year 10:17,23 11:7	99:1 107:7,9	58:1 66:7,12	129:4
9:20 11:9 12:5	13:21 38:4 108:9	124:4,6 125:21	67:20 68:22 72:6	49 49:24
14:19,19 15:2	110:5	12 75:7 121:2	74:15 76:18 84:8	4th 2:21 126:9
16:3,4,7 18:11,16	years 11:15 24:4	12inch 70:5	84:15 91:11 94:2	
19:14 21:12,15	32:8 33:13	130 52:3	94:14 96:3,12	5
25:4 26:7 27:3,11	yelling 61:13	13th 127:8	97:24	5 79:21 83:19 84:2
				50 72:8 74:5

Tina Moore v. Brian Kaminski, et al.

Steven Ijames

March 8, 2016

Page 151

51 72:8
515 4:4 130:6
52 101:20
53 48:19 73:1,11,16
 101:22
566 52:3,5
58 24:15

6

6 45:15,17 48:24
 49:17,24 72:8
 73:1,11,16 74:5
 77:19 83:14
63101 4:5 130:7
63102 2:22 3:16,23
 126:9 129:11
64112 128:19 129:5
641123012 3:8

7

7 5:2 70:5
700 4:4 130:6
779 2:25 127:12
78 10:19
79 10:19

8

8 1:20 6:2 71:4 84:7
 128:13
80 110:5
8165317200 3:9
8degree 70:3
8th 2:22 126:10

9

9 2:23 6:1 48:17,19
90 91:3 92:25 95:21
90day 95:19
90s 43:22
911 49:9 51:7
 115:23,25
95 16:7
99 33:10